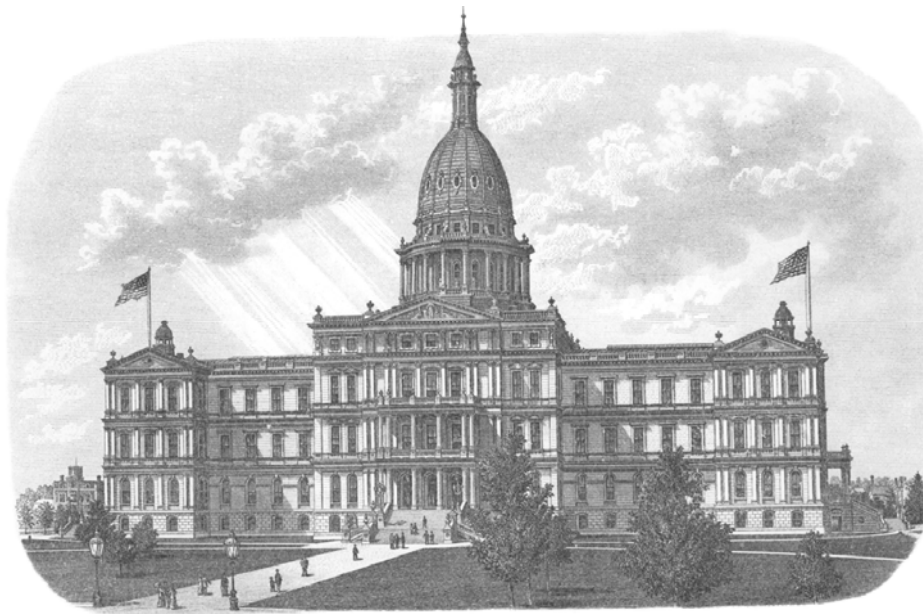


Michigan Register

Issue No. 1 – 2013 (Published February 1, 2013)



GRAPHIC IMAGES IN THE MICHIGAN REGISTER

COVER DRAWING

Michigan State Capitol:

This image, with flags flying to indicate that both chambers of the legislature are in session, may have originated as an etching based on a drawing or a photograph. The artist is unknown. The drawing predates the placement of the statue of Austin T. Blair on the capitol grounds in 1898.

(Michigan State Archives)

PAGE GRAPHICS

Capitol Dome:

The architectural rendering of the Michigan State Capitol's dome is the work of Elijah E. Myers, the building's renowned architect. Myers inked the rendering on linen in late 1871 or early 1872. Myers' fine draftsmanship, the hallmark of his work, is clearly evident.

Because of their size, few architectural renderings of the 19th century have survived. Michigan is fortunate that many of Myers' designs for the Capitol were found in the building's attic in the 1950's. As part of the state's 1987 sesquicentennial celebration, they were conserved and deposited in the Michigan State Archives.

(Michigan State Archives)

East Elevation of the Michigan State Capitol:

When Myers' drawings were discovered in the 1950's, this view of the Capitol – the one most familiar to Michigan citizens – was missing. During the building's recent restoration (1989-1992), this drawing was commissioned to recreate the architect's original rendering of the east (front) elevation.

(Michigan Capitol Committee)

Michigan Register

Published pursuant to § 24.208 of
The Michigan Compiled Laws



Issue No. 1— 2013

(This issue, published February 1, 2013, contains
documents filed from January 1, 2013 to January 15, 2013)

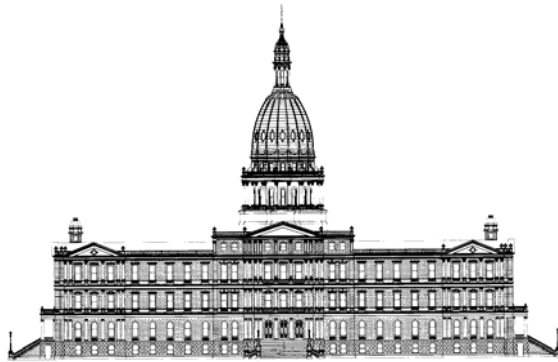
Compiled and Published by the
Office of Regulatory Reinvention

© 2012 by Office of Regulatory Reinvention, State of Michigan
All rights reserved.
Printed in the United States of America

Michigan Register (ISSN 0892-3124). Published twice per month, with a cumulative index, by the Office of Regulatory Reinvention, pursuant to §24.208 of the Michigan Compiled Laws. Subscription \$400.00 per year, postpaid to points in the U.S. First class postage paid at Lansing, Michigan. Direct all mail concerning subscriptions to Office of Regulatory Reinvention, Romney Building – Fourth Floor, 111 S. Capitol Avenue, Lansing, MI 48933

Steve Arwood, Director, Office of Regulatory Reinvention; **Deidre O’Berry**, Administrative Rules Specialist for Operations and Publications.

Rick Snyder, Governor



Brian Calley, Lieutenant Governor

PREFACE

PUBLICATION AND CONTENTS OF THE MICHIGAN REGISTER

The Office of Regulatory Reform publishes the *Michigan Register*.

While several statutory provisions address the publication and contents of the *Michigan Register*, two are of particular importance.

24.208 Michigan register; publication; cumulative index; contents; public subscription; fee; synopsis of proposed rule or guideline; transmitting copies to office of regulatory reform.

Sec. 8.

(1) The office of regulatory reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

- (a) Executive orders and executive reorganization orders.
 - (b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.
 - (c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.
 - (d) Proposed administrative rules.
 - (e) Notices of public hearings on proposed administrative rules.
 - (f) Administrative rules filed with the secretary of state.
 - (g) Emergency rules filed with the secretary of state.
 - (h) Notice of proposed and adopted agency guidelines.
 - (i) Other official information considered necessary or appropriate by the office of regulatory reform.
 - (j) Attorney general opinions.
 - (k) All of the items listed in section 7(m) after final approval by the certificate of need commission under section 22215 of the public health code, 1978 PA 368, MCL 333.22215.
- (2) The office of regulatory reform shall publish a cumulative index for the Michigan register.
- (3) The Michigan register shall be available for public subscription at a fee reasonably calculated to cover publication and distribution costs.
- (4) If publication of an agency's proposed rule or guideline or an item described in subsection (1)(k) would be unreasonably expensive or lengthy, the office of regulatory reform may publish a brief synopsis of the proposed rule or guideline or item described in subsection (1)(k), including information on how to obtain a complete copy of the proposed rule or guideline or item described in subsection (1)(k) from the agency at no cost.
- (5) An agency shall electronically transmit a copy of the proposed rules and notice of public hearing to the office of regulatory reform for publication in the Michigan register.

4.1203 Michigan register fund; creation; administration; expenditures; disposition of money received from sale of Michigan register and amounts paid by state agencies; use of fund; price of Michigan register; availability of text on internet; copyright or other proprietary interest; fee prohibited; definition.

Sec. 203.

- (1) The Michigan register fund is created in the state treasury and shall be administered by the office of regulatory reform. The fund shall be expended only as provided in this section.
- (2) The money received from the sale of the Michigan register, along with those amounts paid by state agencies pursuant to section 57 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.257, shall be deposited with the state treasurer and credited to the Michigan register fund.
- (3) The Michigan register fund shall be used to pay the costs of preparing, printing, and distributing the Michigan register.
- (4) The department of management and budget shall sell copies of the Michigan register at a price determined by the office of regulatory reform not to exceed the cost of preparation, printing, and distribution.
- (5) Notwithstanding section 204, beginning January 1, 2001, the office of regulatory reform shall make the text of the Michigan register available to the public on the internet.
- (6) The information described in subsection (5) that is maintained by the office of regulatory reform shall be made available in the shortest feasible time after the information is available. The information described in subsection (5) that is not maintained by the office of regulatory reform shall be made available in the shortest feasible time after it is made available to the office of regulatory reform.
- (7) Subsection (5) does not alter or relinquish any copyright or other proprietary interest or entitlement of this state relating to any of the information made available under subsection (5).
- (8) The office of regulatory reform shall not charge a fee for providing the Michigan register on the internet as provided in subsection (5).
- (9) As used in this section, "Michigan register" means that term as defined in section 5 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.205.

CITATION TO THE MICHIGAN REGISTER

The *Michigan Register* is cited by year and issue number. For example, 2001 MR 1 refers to the year of issue (2001) and the issue number (1).

CLOSING DATES AND PUBLICATION SCHEDULE

The deadlines for submitting documents to the Office of Regulatory Reinvention for publication in the *Michigan Register* are the first and fifteenth days of each calendar month, unless the submission day falls on a Saturday, Sunday, or legal holiday, in which event the deadline is extended to include the next day which is not a Saturday, Sunday, or legal holiday. Documents filed or received after 5:00 p.m. on the closing date of a filing period will appear in the succeeding issue of the *Michigan Register*.

The Office of Regulatory Reinvention is not responsible for the editing and proofreading of documents submitted for publication.

Documents submitted for publication should be delivered or mailed in an electronic format to the following address: MICHIGAN REGISTER, Office of Regulatory Reinvention, Romney Building – Fourth Floor, 111 S. Capitol Avenue, Lansing, MI 48933

RELATIONSHIP TO THE MICHIGAN ADMINISTRATIVE CODE

The *Michigan Administrative Code* (1979 edition), which contains all permanent administrative rules in effect as of December 1979, was, during the period 1980-83, updated each calendar quarter with the publication of a paperback supplement. An annual supplement contained those permanent rules, which had appeared in the 4 quarterly supplements covering that year.

Quarterly supplements to the Code were discontinued in January 1984, and replaced by the monthly publication of permanent rules and emergency rules in the *Michigan Register*. Annual supplements have included the full text of those permanent rules that appear in the twelve monthly issues of the *Register* during a given calendar year. Emergency rules published in an issue of the *Register* are noted in the annual supplement to the Code.

SUBSCRIPTIONS AND DISTRIBUTION

The *Michigan Register*, a publication of the State of Michigan, is available for public subscription at a cost of \$400.00 per year. Submit subscription requests to: Office of Regulatory Reinvention, Romney Building – Fourth Floor, 111 S. Capitol Avenue, Lansing, MI 48933. Checks Payable: State of Michigan. Any questions should be directed to the Office of Regulatory Reinvention (517) 335-8658.

INTERNET ACCESS

The *Michigan Register* can be viewed free of charge on the Internet web site of the Office of Regulatory Reinvention: www.michigan.gov/orr.

Issue 2000-3 and all subsequent editions of the *Michigan Register* can be viewed on the Office of Regulatory Reinvention Internet web site. The electronic version of the *Register* can be navigated using the blue highlighted links found in the Contents section. Clicking on a highlighted title will take the reader to related text, clicking on a highlighted header above the text will return the reader to the Contents section.

Steve Arwood, Director
Office of Regulatory Reinvention

2013 PUBLICATION SCHEDULE

Issue No.	Closing Date for Filing or Submission Of Documents (5 p.m.)	Publication Date
1	January 15, 2013	February 1, 2013
2	February 1, 2013	February 15, 2013
3	February 15, 2013	March 1, 2013
4	March 1, 2013	March 15, 2013
5	March 15, 2013	April 1, 2013
6	April 1, 2013	April 15, 2013
7	April 15, 2013	May 1, 2013
8	May 1, 2013	May 15, 2013
9	May 15, 2013	June 1, 2013
10	June 1, 2013	June 15, 2013
11	June 15, 2013	July 1, 2013
12	July 1, 2013	July 15, 2013
13	July 15, 2013	August 1, 2013
14	August 1, 2013	August 15, 2013
15	August 15, 2013	September 1, 2013
16	September 1, 2013	September 15, 2013
17	September 15, 2013	October 1, 2013
18	October 1, 2013	October 15, 2013
19	October 15, 2013	November 1, 2013
20	November 1, 2013	November 15, 2013
21	November 15, 2013	December 1, 2013
22	December 1, 2013	December 15, 2013
23	December 15, 2013	January 1, 2014
24	January 1, 2014	January 15, 2014

CONTENTS

ADMINISTRATIVE RULES FILED WITH SECRETARY OF STATE

Department of Licensing and Regulatory Affairs

MIOSHA (2012-050)

Part 16 Power Transmission and Distribution CS2-4

Department of Licensing and Regulatory Affairs

MIOSHA (2012-058)

Part 17 Electrical Installations CS5-7

Department of Licensing and Regulatory Affairs

MIOSHA (2012-060)

Part 21 Guarding of Walking and Working Areas CS.....8-9

Department of Licensing and Regulatory Affairs

MIOSHA (2012-061)

Part 24 Tar Kettles CS10-11

Department of Licensing and Regulatory Affairs

MIOSHA (2012-062)

Part 25 Concrete Construction CS12-18

Department of Licensing and Regulatory Affairs

MIOSHA (2012-063)

Part 26 Steel Erection CS.....19-19

Department of Licensing and Regulatory Affairs

MIOSHA (2012-069)

Part 4 Portable Ladders GI.....20-20

Department of Licensing and Regulatory Affairs

MIOSHA (2012-070)

Part 5 Scaffolding General Provisions GI.....21-25

Department of Licensing and Regulatory Affairs

MIOSHA (2012-071)

Part 7 Guards for Power Transmission GI.....26-26

Department of Licensing and Regulatory Affairs

MIOSHA (2012-072)

Part 8 Portable Fire Extinguishers GI.....27-29

Department of Licensing and Regulatory Affairs

MIOSHA (2012-073)

Part 9 Fixed Fire Equipment GI.....	30-32
-------------------------------------	-------

**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

Department of Human Services

Director's Office (2010-045)

Licensing Rules for Child Care Centers	34-123
Hearing Notice	124-125

Department of Licensing and Regulatory Affairs

Bureau of Construction Codes (2011-040)

Part 8 Electrical Code	126-137
Hearing Notice	138-139

Department of Licensing and Regulatory Affairs

Bureau of Construction Codes (2011-041)

State Boundary Commission.....	140-157
Hearing Notice	158-159

Department of Licensing and Regulatory Affairs

Bureau of Construction Codes (2012-010)

Part 9A Mechanical Code	160-168
Hearing Notice	169-170

Department of Licensing and Regulatory Affairs

MIOSHA (2012-122)

Part 44 Foundries GI.....	171-171
---------------------------	---------

Department of Licensing and Regulatory Affairs

MIOSHA (2012-123)

Part 57 Oil and Gas Drilling and Servicing Operations GI	172-178
--	---------

Department of Licensing and Regulatory Affairs

MIOSHA (2012-124)

Part 62 Plastic Molding GI	179-180
----------------------------------	---------

Department of Licensing and Regulatory Affairs

MIOSHA (2012-125)

Part 72 Automotive Service Operations GI	181-184
--	---------

Department of Licensing and Regulatory Affairs

MIOSHA (2012-126)

Part 73 Fire Brigades GI	185-188
--------------------------------	---------

Department of Licensing and Regulatory Affairs

MIOSHA (2012-127)

Part 45 Die Casting GI.....189-190

Department of Licensing and Regulatory Affairs

MIOSHA (2012-127)

Part 309 Cadmium OH.....191-209

EMERGENCY RULES

Department of Licensing and Regulatory Affairs

Bureau of Health Care Services

Board of Pharmacy (2013-001 LR)211-214

MICHIGAN ADMINISTRATIVE CODE TABLE

Table (2013 Session)216-216

CUMULATIVE INDEX

Cumulative Index (2013).....217-218

BILLS SIGNED INTO LAW OR VETOED

Appendix Table 1 (2012 Session) (Legislative Service Bureau Pages (1-34)219-219

**ADMINISTRATIVE RULES
FILED WITH THE SECRETARY OF STATE**

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reinvention shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(f) Administrative rules filed with the secretary of state.”

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of state on January 9, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.41610, R 408.41627, R 408.41633, and R 408.41658 of the Michigan Administrative Code are amended as follows:

PART 16. POWER TRANSMISSION AND DISTRIBUTION

R 408.41610 Adoption of Standards by Reference.

Rule 1610. (1) The following standards are adopted by reference in these rules and are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado, 80112, telephone number 1-800-854-7179, website: www.global.ihs.com, at a cost as of the time of adoption of these rules, as stated in this rule:

- (a) American Society of Testing and Materials standard ASTM D-120, Standard Specification for Rubber Insulating Gloves, 1977 edition. Cost: \$64.00.
- (b) American Society of Testing and Materials standard ASTM D-178, Standard Specification for Rubber Insulating Matting, 2004 edition. Cost: \$56.00.
- (c) American Society of Testing and Materials standard ASTM D-1048, Standard Specification for Rubber Insulating Blankets, 1977 edition. Cost: \$56.00.
- (d) American Society of Testing and Materials standard ASTM D-1049 Standard Specification for Rubber Insulating Covers, 2004 edition. Cost: \$56.00.
- (e) American Society of Testing and Materials standard ASTM D-1050 Standard Specification for Rubber Insulating Line Hose, 2005 edition. Cost: \$56.00.
- (f) American Society of Testing and Materials standard ASTM D-1051 Standard Specification for Rubber Insulating Sleeves, 2002 edition. Cost: \$56.00.
- (g) American Society of Testing and Materials standard ASTM F-496 Standard Specifications for In-Service Care of Insulating Gloves and Sleeves, 2004 edition. Cost: \$56.00.
- (h) American Society of Testing and Materials standard ASTM B-117 Standard Method of Salt Spray (Fog) Testing, 1979 edition. Cost: \$49.00.

These standards are available for inspection at the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, Lansing, Michigan 48909-8143.

(2) The following Michigan occupational safety and health standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) Construction safety standard Part 6 Personal Protective Equipment, R 408.40601 to R 408.40641.

(b) Construction safety standard Part 8 Handling and Storage of Materials, being R 408.40801 to R 408.40841.

(c) Construction safety standard Part 9 Excavation, Trenching, and Shoring, being R 408.40901 to R 408.40953.

(d) Construction safety standard Part 10 Lifting and Digging Equipment, R 408.41001 to R 408.41099.

(e) Construction safety standard Part 11 Fixed and Portable Ladders, being R 408.41101 to R 408.41140.

(f) Construction safety standard Part 13 Mobile Equipment, R 408.41301.

(g) Construction safety standard Part 18 Fire Protection and Prevention, being R 408.41801 to R 408.41884.

(h) Construction safety standard Part 19 Tools, R 408.41901 to R 408.41980.

(i) Construction safety standard Part 22 Signals, Signs, Tags, and Barricades, R 408.42201 to R 408.42243.

(j) Construction safety standard Part 32 Aerial Work Platforms, R 408.43201 to R 408.43220.

(k) Construction safety standard Part 45 Fall Protection, R 408.44501 to R 408.44502.

(l) General industry safety standards Part 59 Helicopters, R 408.15901 to R 408.15931.

R 408.41627 Clearances.

Rule 1627. (1) The following provisions of subdivision (a), (b), or (c) of this subrule shall be observed:

(a) An employee shall not be permitted to approach or take any conductive object without an approved insulating handle closer to exposed energized parts than shown in table 1, unless 1 of the following is complied with:

(i) The employee is insulated or guarded from the energized part. Gloves or gloves with sleeves rated for the voltage involved, which are provided for pursuant to construction safety standard Part 6 Personal Protective Equipment, R 408.40617 and R 408.41632 of this standard, shall be considered insulation of the employee from the energized part. The work method on parts energized above 5,000 volts phase to ground shall be with rubber gloves and sleeves out of an insulated bucket, by the use of hot line tools, or with rubber gloves and sleeves in conjunction with a factory-made and approved insulated platform that provides a method of belting off other than to the pole or structure. This rule does not apply to the bare-hand technique.

(ii) The energized part is insulated or guarded from the employee and any other conductive object at a different potential.

(iii) The employee is isolated, insulated, or guarded from any other conductive object, as during live-line, bare-hand work.

(b) The minimum working distance and minimum clear hot stick distances stated in table 1 shall not be violated. The minimum clear hot stick distance is that for the use of live-line tools held by linemen when performing live-line work.

(c) Conductor support tools, such as line sticks, strain carriers, and insulator cradles, may be used provided that the clear insulation is at least as long as the insulator string or the minimum distance specified in table 1 for the operating voltage.

(2) Table 1 reads as follows:

Table 1 Alternating Current - Minimum Distances	
Voltage Range (Phase to Phase) Kilovolt	Minimum Working and Clear Hot Stick Distance
2.1 to 15	2 ft. 0 in.
15.1 to 35	2 ft. 4 in.
35.1 to 46	2 ft. 6 in.
46.1 to 72.5	3 ft. 0 in.
72.6 to 121	3 ft. 4 in.
138 to 145	3 ft. 6 in.
161 to 169	3 ft. 8 in.
230 to 242	5 ft. 0 in.
345 to 362	*7 ft. 0 in.
500 to 552	*11 ft. 0 in.
700 to 765	*15 ft. 0 in.
* Note: For 345-362 kv, 500-552 kv., and 700-765 kv., the minimum working distance and the minimum clear hot stick distance may be reduced provided that such distances are not less than the shortest distance between the energized part and a grounded surface.	

R 408.41633 Head protection.

Rule 1633. (1) A helmet, provided for and as prescribed in construction safety standard, Part 6 Personal Protective Equipment, R 408.40617 and R 408.40621, shall be used to protect the employee where a hazard or risk of injury exists from falling or flying objects or particles or from other harmful contacts or exposures.

(2) Where there is exposure to electrical contact, helmet liners or wind guards shall not be in contact with the outside shell of the helmet.

R 408.41658 External load helicopters.

Rule 1658. In all operations performed using a rotorcraft for moving or placing external loads, the provisions of general industry safety standard, Part 59 Helicopters, as referenced in R 408.41610, shall be complied with.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on January 9, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.41719, R 408.41725, and R 408.41728 of the Michigan Administrative Code are amended as follows:

PART 17. ELECTRICAL INSTALLATIONS

R 408.41719. Adoption by reference.

Rule 1719. (1) Electrical wiring, apparatus, and equipment shall be manufactured, installed, and maintained as prescribed in the National Fire Protection Association (NFPA) standard, No. 70, 1975 edition, "National Electrical Code", which is adopted by reference. This standard may be purchased from, NFPA, 1 Batterymarch Park, Quincy, Massachusetts, USA, 02169-7471, telephone number: 1-617-770-3000 or via the internet at website: www.nfpa.org; at a cost as of the time of adoption of these rules of \$27.00.

(2) Section 210-8 of the code adopted by reference in subrule (1) of this rule is excepted. In lieu of this section, the employer shall conform to 1 of the following:

(a) Install ground-fault circuit interrupters as prescribed in rule 1721.

(b) Establish and implement an assured equipment grounding conductor program as prescribed in rule 1722.

(3) The standard adopted in subrule (1) of this rule is also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(4) Copies of the standard adopted in subrule (1) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus \$20.00 for shipping and handling.

R 408.41725. Wiring; attachment plug receptacles; extension and trailing cords; handlamps; portable electric tools used in wet environment; convertor supplying equipment at more than 300 volts.

Rule 1725. (1) When electrical wiring is used in a tank or other confined space, a properly identified disconnect switch shall be provided at the entrance.

(2) A receptacle for an attachment plug shall meet all of the following requirements:

(a) Be of the concealed contact type.

(b) Have a contact for extending ground continuity.

(c) Be designed and constructed so that the plug may be removed without leaving any live parts exposed to contact.

(d) Not be capable of receiving attachment plugs for a voltage, frequency, or type of current different from that for which the receptacle is intended, nor shall a plug of a different style be forced into a receptacle.

(3) An extension cord used with a portable electric tool or appliance shall be a 3-wire type.

(4) Conductors supplying temporary wiring shall be the minimum protective qualities of type NM wire for use indoors, or type UF wire for use outdoors.

(5) A brass shell, paper lined lamp holder and a pintype lampholder which damages the insulation shall not be used.

(6) Wiring for temporary lighting in excess of 12 volts used on barricades, fences, and sidewalk coverings shall be protected against abrasion of accidental damage to the insulation.

(7) Trailing cords and extension cords shall meet all of the following:

(a) Be protected against damage.

(b) Hung in a manner which does not damage the covering.

(c) Retain their insulating value and dielectric and physical strength when spliced.

(d) Be insulated to prevent shock or shorts.

(e) Have a plug body or receptacle which is either molded to the cord or is equipped with a cord clamp to prevent strain on the terminal screws, or a receptacle installed in a steel box with a cover and cord clamp.

(8) A portable handlamp shall be made of molded composition or other approved material and shall have a molded handle with bulb guard attached to it.

(9) A portable light used in moist or other hazardous areas, such a drum, tank, or vessel, shall be operated at a maximum of 12 volts, or shall be protected by an approved ground-fault interrupter.

(10) A portable electric tool used in a wet atmosphere or environment shall be protected by an approved ground-fault interrupter.

(11) An attachment plug or other connector supplying equipment at more than 300 volts shall be of the skirted type or shall be otherwise designed to confine any arcs.

R 408.41728. Grounding and bonding.

Rule 1728. (1) A grounding circuit shall be continuous, be capable of carrying the current imposed on it, and have a resistance low enough to permit sufficient current to flow to cause the fuse or circuit breaker to interrupt the current.

(2) Non-electrical equipment. The metal parts of the following non-electrical equipment shall be grounded:

(a) Frames and tracks of electrically operated cranes.

(b) Frames of non-electrically driven elevator cars to which electric conductors are attached.

(c) Hand-operated metal shifting ropes or cables of electric elevators.

(d) Metal partitions, grill work, and similar metal enclosures around equipment of over 1kV between conductors.

(3) Driven rod electrodes, either singly or connected, shall have a resistance to ground of not more than 25 ohms.

(4) Conductors used for bonding shall be capable of carrying the imposed current. The bonding clamps shall have a secure and positive metal-to-metal contact.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on January 9, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.42149, R 408.42156, R 408.42157, and R 408.42159 of the Michigan Administrative Code are amended, and R 408.42131, R 408.42145, and R 408.42160 are rescinded, as follows

PART 21. GUARDING OF WALKING AND WORKING AREAS

R 408.42131. Rescinded.

R 408.42145 Rescinded.

R 408.42149 Stairways.

Rule 2149. (1) A stairway shall be equipped with a stair railing or handrail as follows:

(a) A stairway which is not more than 44 inches wide and which has enclosed sides shall have a handrail on the right descending side.

(b) A stairway which is not more than 44 inches wide and which has 1 open side shall have a stair railing on the open side.

(c) A stairway which is not more than 44 inches wide and which has 2 open sides shall have a stair railing on each side.

(d) A stairway that is more than 44 inches wide shall have 1 handrail on each enclosed side and 1 stair rail on each open side.

(e) A stairway that is 88 or more inches wide shall have 1 handrail on each enclosed side, 1 stair rail on each open side, and 1 intermediate stair rail located in the middle of the stairway.

(2) Where a door or gate opens directly on a stairway more than 6 feet in height and is used as a required means of egress, a stair landing shall be provided. The swing of the door shall not reduce the landing which leads to the stairway to less than 20 inches unless specified in another code.

R 408.42156 Handrail specifications.

Rule 2156. (1) A handrail shall be of a configuration that provides a handhold when grasped to avoid a fall and shall follow the slope of the stairway.

(2) A handrail shall be vertically installed not more than 37, nor less than 30, inches above the front edge of the treads.

(3) When the top edge of a stair rail system also serves as a handrail, the height of the top edge shall be not more than 37 inches (94cm) nor less than 36 inches (91.5cm) from the upper surface of the stair rail system to the surface of the tread and in line with the face of the riser at the forward edge of the tread.

(4) A handrail shall have a smooth surface along the top and sides and the ends shall not present a projection hazard.

(5) Handrails that will not be a permanent part of the structure being built shall have a minimum clearance of 3 inches (3cm) between the handrail and walls, stair rail systems, and other objects.

(6) The ends of stair rail systems and handrails shall be constructed so as not to constitute a projection hazard.

R 408.42157 Temporary stairways.

Rule 2157. (1) All wooden components that are necessary to construct and guard a temporary stairway shall be of construction-grade lumber.

(2) The minimum width of a temporary stairway shall be 22 inches.

(3) The total vertical rise of a temporary stairway shall not be more than 12 feet, unless stair platforms are provided.

(4) The rise shall be not less than 6 inches nor more than 8 inches.

(5) The ratio of rise to tread width shall be uniform for all sets of stairs.

(6) The sides of a temporary stairway shall be guarded as required by the provisions of R 408.42155 and R 408.42156, except that a stairway used as access to material storage trailers is required to be guarded on only 1 side.

(7) If used during construction, permanent steel or other metal stairways and landings with hollow pan-type treads that are to be filled with concrete or other materials shall be filled to the level of the nosing with solid material. This requirement shall not apply during the period of actual construction of the stairways. Metal landings shall be secured in place before filling. Such temporary treads and landings shall be replaced when worn below the level of the top edge of the pan.

(8) A stairway shall be free of hazardous projections, such as nails, sharp top rails, and handrail projections.

(9) A stairway shall have a minimum vertical clearance of 7 feet from any overhead object, unless the overhead object is padded and caution signs or paint is used on the object, as prescribed in Part 22. Signals, Signs, Tags, and Barricades, R 408.42201 et seq. of the Michigan Administrative Code.

(10) Except during stairway construction, foot traffic is prohibited on skeleton metal stairs where permanent treads or landings are to be installed at a later date, unless the stairs are fitted with secured temporary treads and landings long enough to cover the entire tread or landing area.

(11) Treads for temporary service shall be made of wood or other solid material and shall be installed the full width and depth of the stair.

R 408.42159 Maintenance.

Rule 2159. (1) A floor, platform, stair tread, or landing shall be maintained free of tripping or slipping hazards.

(2) A floor, platform, stair, runway, or ramp shall be free of hazardous projections.

R 408.42160 Rescinded.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on January 9, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.42402, R 408.42403, R 408.42404, R 408.42405, R 408.42406, and R 408.42407 of the Michigan Administrative Code are amended as follows:

PART 24. TAR KETTLES

R 408.42402 Tar kettle construction.

Rule 2402. (1) A tar kettle vat for molten material shall be of welded construction and all other materials of the tar kettle, except tires, used in its construction shall be noncombustible. A tanker for molten material shall be braced and baffled to contain the load.

(2) A cover for a tar kettle vessel shall be hinged, close fitting, and capable of smothering a fire inside the vessel, when in a closed position.

(3) A discharge valve from a tar kettle vessel shall be a quick closing type with standard pipe thread.

(4) Pipe, tubing, hose, and conductors used for hot material from a tar kettle or tanker shall be supported when above ground or floor level. Hose, tubing, pipe, and conductors running horizontally shall be supported at intervals that will prevent sagging. Connections shall be made with unions or couplings and shall be maintained free of leaks.

(5) Where a pump unit is mounted on a tar kettle and the fuel container is an integral part of the pump, the pump unit shall be shielded from the tar kettle by a barrier of rigid noncombustible material.

R 408.42403 Loading and operating.

Rule 2403. A tar kettle or tanker shall have a qualified experienced operator in attendance at all times that the kettle or tanker is being fired. The operator shall not leave the ground area or be at a distance from the kettle or tanker that would prevent the operator's immediate attention.

R 408.42404 Controls.

Rule 2404. (1) A tar kettle and tanker shall be equipped with a working temperature gauge.

(2) A yard storage unit or tanker purchased or constructed after August 9, 1974; shall have a level indicator to show the amount of the contents within the vessel.

R 408.42405 Fuel.

Rule 2405. If a fuel tank is located less than 10 feet from a tar kettle or tanker, the fuel tank shall be shielded from the tar kettle or tanker by a barrier of rigid noncombustible material.

R 408.42406 Fire precautions.

Rule 2406. (1) One or more portable fire extinguishers of the dry powder type having a total capacity of not less than 40 pounds shall be located not less than 10 feet nor more than 25 feet from a tar kettle being fired. An extinguisher less than 10 pounds shall not be provided.

(2) A tar kettle shall not be placed less than 20 feet from combustible materials unless separated by a fire-resistant blanket.

(3) A tar kettle shall not be placed less than 10 feet from a structure that extends above the highest part of a kettle, piping excluded.

(4) A tar kettle shall not be placed in or upon a building except by permission of an authorized representative of the department.

R 408.42407 Material handling.

Rule 2407. (1) The rope pulley shall be secured to the thrustout or hoisting jack in a manner to support not less than 3 times the weight to be lifted. The pulley groove shall be the same size as the rope.

(2) Where a structural steel or wood beam thrustout is used, it shall be designed and installed in a manner to support not less than 3 times the weight being lifted and prevent tipping and twisting. A wood thrustout shall be set on edge.

(3) Where a counterweight is used, it shall be contained or secured in place to prevent slippage.

(4) Where a manual or powered hoisting jack is used, it shall be designed and installed in such a manner as to support not less than 3 times the load to be lifted.

(5) An employee shall not stand or walk under material being hoisted.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on January 9, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154 and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.42502, R 408.42503, R 408.42518, R 408.42520, R 408.42521, R 408.42522, R 408.42524, R 408.42525, R 408.42526, R 408.42527, R 408.42528 R 408.42531, R 408.42532, and R 408.42533 of the Michigan Administrative Code are amended and R 408.42534 and R 408.42535 are rescinded, as follows:

PART 25. CONCRETE CONSTRUCTION

R 408.42502 Adoption of standards.

Rule 2502. (1) The following standards are adopted by reference in these rules and are available from Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado, 80112, telephone number 1-800-854-7179, website: www.global.ihs.com, at a cost as of the time of adoption of these rules, as stated in this rule:

(a) American National Standard Institute standard ANSI A10.9, "Concrete Construction and Masonry Work," 1983 edition. Cost: \$20.00.

(b) American Welding Society standard AWS D1.1/D1.1M, "Structural Welding Code Steel," 2002 edition. Cost: \$468.00.

(2) The following standard is adopted by reference in these rules, American Welding Society standard AWS B1.10, "Guide for the Nondestructive Examination of Welds," 1999 edition. This standard is available from The AWS Store Customer Service, 13301 NW 47 Avenue, Opa-Locka, Florida 33054 USA; telephone number: 305-826-6192; or via the internet at website: www.aws.org; at a cost as of the time of adoption of these rules of \$104.00.

(3) The standards adopted in subrules (1) and (2) of this rule are also available for inspection at the Michigan Department of Licensing And Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, Lansing, Michigan 48909-8143.

(4) Copies of these standards, adopted in this rule, may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in this rule, plus \$20.00 for shipping and handling.

R 408.42503 Reference of standards.

Rule 2503. The following Michigan occupational safety and health standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing And Regulatory Affairs, MIOSHA Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48908-8143, or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, at the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety Standard Part 12 “Scaffolds and Scaffold Platforms,” R 408.41201 to R 408.41264.

(b) Construction Safety Standard Part 21 “Guarding of Walking and Working Areas,” R 408.42101 to R 408.42160.

(c) Construction Safety Standard Part 45 “Fall Protection,” R 408.44501 to R 408.44502.

R 408.42518 Reinforcing steel.

Rule 2518. (1) A route designated as a means of access or egress across reinforcing steel for general traffic shall be provided with a walkway.

(2) An employee shall not be permitted to work above vertically protruding reinforcing steel unless the steel has been protected to eliminate the hazard of impalement of the employee.

(3) Reinforcing steel or walls, piers, columns, and other similar vertical structures shall be guyed, braced, or otherwise supported to prevent collapse.

(4) Reinforcing steel shall not be used as a scaffolding hook or stirrup or as a load-bearing member in a lifting device.

(5) Reinforcing steel shall not be welded and used as a load-bearing member.

(6) Roll wire mesh shall be secured at each end to prevent dangerous recoiling action.

R 408.42520 Concrete mixing, pouring, and floating.

Rule 2520. (1) A concrete mixer that is equipped with a 1-yard or larger loading skip shall be equipped with a mechanical device to clear the skip of material.

(2) A guardrail that is capable of withstanding a 200-pound side thrust shall be provided on each side of a skip on a mixer that has a capacity of 1 or more yards.

(3) The handle on a bull float that is used where it may contact an energized electrical conductor shall be constructed of nonconductive material or shall be insulated with a nonconductive sheath that has electrical and mechanical characteristics which provide the equivalent protection of a handle constructed of nonconductive material.

(4) A powered and rotating-type concrete troweling machine that is manually guided shall be equipped with a control switch that will automatically shut off the power when the hands of the operator are removed from the equipment handles or switch.

(5) The handles of a concrete buggy shall not extend horizontally beyond the wheels on either side of the buggy.

(6) A concrete bucket that is equipped with a hydraulically or pneumatically operated gate shall have a positive safety latch or a similar safety device installed to prevent premature or accidental dumping. The bucket shall be designed to prevent aggregate and loose material from accumulating on the top and sides of the bucket.

(7) An employee shall not be permitted to ride a bucket or walk or work under a bucket that is suspended from a crane or cableway.

(8) A concrete bucket that is positioned by a crane or cableway shall be suspended from an approved swivel safety-type hook.

(9) A pumpcrete or similar system using discharge pipe shall have pipe supports that are designed for a 100% overload. Compression air hoses in the system shall be provided with positive fail-safe joint connectors to prevent the separation of sections when pressurized.

(10) A runway, ramp, or scaffold, shall be provided for placement of concrete in areas such as walls, piers, columns, and beams, as prescribed in Construction Safety Standards Part 12. "Scaffolds and Scaffold Platforms," Part 21 'Guarding of Walking and Working Areas,' and Part 45 "Fall Protection," as referenced in R 408.42503.

(11) A concrete mixer, or other equipment, such as a compressor, screen, or pumps used for concrete construction activities, where inadvertent operation of the equipment may occur and cause injury shall be locked out when an employee is performing maintenance or repair. An employee who is inside a concrete mixer performing maintenance or repair shall have the only key to the lock.

(12) Sections of tremies and similar concrete conveyances shall be secured with wire rope, or equivalent materials, in addition to the regular couplings or connections.

R 408.42521 Forms and shoring generally.

Rule 2521. (1) Formwork, shoring, and reshoring shall be designed, erected, supported, braced, and maintained so that they will support all vertical and lateral loads that may be imposed upon them during placement of concrete or until the loads can be supported by the concrete structure.

(2) Drawings or plans which are prepared by the qualified person, except as required in R 408.42527(5) and R 408.42533(1), and which show the jack layout, formwork, shoring, working decks, and scaffolding shall be available at the jobsite.

(3) No construction loads shall be placed on a concrete structure or portion of a concrete structure unless the employer determines, based on information received from a person who is qualified in structural design, that the structure or portion of the structure is capable of supporting the loads.

R 408.42522 Placing and removing forms.

Rule 2522. (1) Forms shall not be completely removed until a determination has been made that the concrete can support its own weight and any currently superimposed load. Such determination shall be based on compliance with either of the following:

(a) The plans and specifications stipulate conditions for removal of forms and shores, and such conditions have been followed.

(b) The concrete has been properly tested with an appropriate ASTM standard test method designed to indicate the concrete compressive strength, and that the test results indicate that the concrete has gained sufficient strength to support its weight and superimposed loads.

(2) Vertical, horizontal, and overhead forms that are being raised or removed by lifting equipment shall be braced or secured before being released from the load line.

R 408.42524 Vertical shoring generally.

Rule 2524. (1) When temporary storage of reinforcing rods, material, or equipment on top of formwork becomes necessary, these areas shall be strengthened to support the intended loads.

(2) The sills for shoring shall be sound, rigid, and capable of carrying the maximum intended load.

(3) When shoring from soil, the soil shall be capable of supporting the load and the soil shall be inspected after each occurrence which could affect its load-bearing capacity. Soil weakened from any occurrence that reduces its load-bearing capacity to less than that required to support a specific load shall be strengthened by compacting or other equivalent means.

(4) Baseplates, shore heads, extension devices, and adjustment screws shall be in firm contact with the footing sill and the form.

(5) Eccentric loads on shore heads and similar members or shoring are prohibited, unless the shore heads are designed for the loading.

(6) Shoring equipment shall be inspected by a qualified person before erection to determine that it is as specified in the shoring drawings or plans. Any equipment found to be damaged shall not be used for shoring.

(7) Before concrete is placed in the forms, all shoring equipment shall be inspected by a qualified person to determine whether it was erected as specified in the shoring drawings or plans.

(8) Erected shoring shall be inspected by a qualified person during and immediately after pouring concrete. Shoring that is found to be damaged or weakened shall be reinforced or reshored.

(9) Only designated employees shall be permitted on the first floor immediately under the forms during concrete placing work.

(10) Shoring equipment shall not be released or removed without the approval and assurance of a qualified person that the remaining equipment will support the load.

(11) Construction or superimposed loads shall not be placed on an uncured concrete pour unless either of the following provisions is complied with:

(a) The strength of the concrete in the previous pour has been determined by testing to be capable of withstanding the load.

(b) A qualified person indicates that the concrete has developed sufficient strength to support the load. This subrule does not apply to slip form operations and slabs built at grade elevation.

(12) Reshoring shall be provided, when necessary, to support slabs and beams after stripping or where the members are subjected to superimposed loads due to the construction work done.

(13) Vertical shoring shall not be adjusted to raise formwork after concrete is in place, unless specifically provided for in the design specifications.

R 408.42525 Metal frame shoring.

Rule 2525. Locking devices on frames and braces shall be in good working order; coupling pins shall align the frame or panel legs; pivoted cross braces shall have their center pivot in place, and all components shall be without defects.

R 408.42526 Tube and coupler shoring.

Rule 2526. (1) The couplers or clamps shall not be used if they are deformed, broken, have defective or missing threads on bolts, or have other defects.

(2) The interlocking of the tubular members and the tightness of the couplers shall be checked before pouring concrete.

R 408.42527 Single-post shores.

Rule 2527. (1) For stability, a single-post shore shall be horizontally braced in both the longitudinal and transverse directions, and diagonal bracing shall also be installed. The bracing shall be installed as the shores are being erected.

(2) The top of single-post shores shall be restricted from movement by the use of retainers or other equivalent means.

(3) Timber and fabricated single-post shores and the adjusting devices shall be inspected before erection. Timber for single-post shores shall not be used if it contains splits, cuts, rotting, or structural damage.

(4) A metal single-post shore and the adjusting devices shall not be used if the shore or devices are heavily rusted, bent, dented, or rewelded or have broken weldments or other defects.

(5) A single-post shore that is used in more than 1 tier shall be designed by a registered engineer and inspected by a qualified person. All of the following shall apply:

- (a) The single post shores shall be vertically aligned.
- (b) The single post shores shall be spliced to prevent misalignment.
- (c) The single post shores shall be adequately braced in 2 mutually perpendicular directions at the splice level. Each tier shall also be diagonally braced in the same 2 directions.
- (6) When formwork is at an angle or is sloping or when the surface shored is sloping, the shoring shall be designed for this loading by a qualified engineer.

R 408.42528 Flying forms.

Rule 2528. (1) Nothing shall be allowed on the forms during movement unless it is securely fastened to the forms.

(2) A person, other than the rigger, shall not be permitted on top of the deck form after rollout operations have been completed.

(3) Rigging of the deck form shall be completed before the line from the crane takes the total load of the form.

R 408.42531 Prestressed and poststressed concrete operations.

Rule 2531. (1) An expendable strand deflection device that is used to pretension concrete members shall have a designed safety factor of not less than 2. A reusable device shall have a safety factor of not less than 3.

(2) Expendable and reusable strand deflection devices shall not be loaded in excess of their maximum intended load.

(3) An employer shall designate a qualified person to inspect all jacking and pulling equipment before each use and during use.

(4) Tensioning strands that have kinks, bends, nicks, and other defects shall not be used.

(5) Welding or cutting is prohibited near strand that has been unrolled, strung, or tensioned or at any other location where strand is stored.

(6) During jacking operations of any tensioning element or group of tensioning elements, the anchor shall be kept turned up close to the anchor plate.

(7) An employee shall not stand in the line of, in back of, or over the jacking equipment during tensioning operations.

(8) Only an employee who is operating tensioning equipment shall be permitted in the immediate vicinity when tensioning is in progress.

(9) Stress members shall be lifted with the lifting devices at points specifically designed. An employee shall not be under stressed members during lifting and erection.

(10) Audible or visual signaling devices shall be operated to warn employees when tensioning operations are under way.

(11) All employees who are not directly involved in the tensioning operations shall be cleared from the area and shall remain clear until tensioning operations are completed and the signaling devices are turned off.

R 408.42532 Precast and tilt-up operations.

Rule 2532. (1) Lifting inserts which are embedded or otherwise attached to tilt-up precast concrete members shall be capable of supporting at least 2 times the maximum intended load applied or transmitted to them. Lifting inserts which are embedded or otherwise attached to precast concrete members, other than the tilt-up members, shall be capable of supporting at least 4 times the maximum intended load applied or transmitted to them. Lifting hardware shall be capable of supporting at least 5 times the maximum intended load applied transmitted to the lifting hardware.

(2) An erection and procedure plan, including placement of connections, shall be prepared by a qualified employee knowledgeable in precast concrete erection and be kept available at the jobsite.

(3) Precast concrete wall units and vertical panels shall be braced to prevent collapse. A permanent connection may be used in place of bracing if it is capable of withstanding all loads imposed during construction.

(4) An employee, except for a connector, shall not be permitted under a precast section, wall, or panel during lifting and tilting operations.

R 408.42533 Lift-slab operations.

Rule 2533. (1) A registered professional engineer who is qualified in lift-slab operations shall design and plan lift-slab operations. An employer shall implement the plans and designs and shall include detailed instructions and sketches that indicate the prescribed method of erection. The plans and designs shall also include provisions for ensuring lateral stability of the building or structure during construction.

(2) An employer shall ensure that jacks are marked to indicate the rated capacity established by the manufacturer.

(3) An employer shall ensure that jacks are not loaded beyond the rated capacity established by the manufacturer.

(4) An employer shall ensure that jacking equipment is not overloaded and the threaded rods and other members that transmit loads to the jacks are capable of supporting not less than 2 1/2 times the load to be applied. Jacking equipment shall include all of the following:

(a) Jacks and other lifting units.

(b) Lifting angles.

(c) Lifting nuts.

(d) Hook-up collars.

(e) T-caps.

(f) Shearheads.

(g) Columns and footings.

(5) An employer shall ensure that a jack is designed and installed so that it will not lift or continue to lift when it is loaded in excess of its rated capacity.

(6) An employer shall ensure that a jack has a safety device installed that will cause the jack to support the load in any position if the jack malfunctions or loses its lifting ability.

(7) An employer shall ensure that jacking operations are synchronized to ensure even and uniform lifting of the slab. An employer shall ensure, that during lifting, all points of the slab support are kept within 1/2 of an inch of that needed to maintain the slab in a level position.

(8) If leveling is automatically controlled, then an employer shall ensure that a device is installed which will stop the operation when the 1/2-inch tolerance specified in subrule (7) of this rule is exceeded or when there is a malfunction in the jacking system.

(9) An employer shall ensure that the maximum number of manually controlled jacks on 1 slab is limited to a number, which shall not be more than 14, that will permit the operator to maintain the slab level within specified tolerances. The controls shall be located near a qualified person.

(10) An employer shall ensure that an employee, except for an employee who is essential to the jacking operation, is not permitted in the building while any jacking operation is taking place. For the purpose of this subrule, a jacking operation begins when a slab or group of slabs is lifted and ends when the slabs are secured with either temporary connections or permanent connections.

(11) An employer shall ensure that an employee is not permitted under a slab during jacking operations.

(12) An employer shall ensure that all welding on temporary and permanent connections is performed in accordance with the requirements of the American welding society standards AWS D1.1/D1.1M, 2002 edition, Structural Welding Code Steel, and AWS B1.10, 1999 edition, Guide for the Nondestructive Examination of Welds. These standards are adopted by reference in R 408.42503. An employer shall ensure that the welders are familiar with the welding requirements specified in the lift-slab plan and specifications.

(13) An employer shall ensure that load transfer from jacks to building columns is not executed until the welds on the column shear plates are cooled to air temperature.

(14) An employer shall ensure that jack-lifting units are positively secured to building columns so that they do not become dislodged or dislocated.

(15) An employer shall ensure that equipment is designed and installed so that the lifting rods cannot slip out of position or the employer shall initiate other measures, such as the use of locking or blocking devices, that will provide attachments and prevent components from disengaging during lifting operations.

(16) Lifting devices, other than jacks covered by subrule (4) of this rule, shall be of sufficient strength and design to provide a safety factor not less than 5 times the working load.

R 408.42534 Rescinded.

R 408.42535 Rescinded.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

CONSTRUCTION SAFETY STANDARDS

Filed with the Secretary of State on January 9, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 19 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL, 445.2001, 445.2011, 445.2025 and 445.2030)

R 408.42602, and R 408.42644, of the Michigan Administrative Code are amended, as follows:

PART 26. STEEL ERECTION

R 408.42602 Reference of standards.

Rule 2602. (1) The following occupational safety and health administrative standards are referenced in this standard. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909-8143, or via the internet at: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, at the time of adoption of these rules, is 4 cents per page.

(a) Construction Safety Standard Part 10. "Lifting and Digging Equipment," R 408.41001a to R 408.41099a.

(b) Construction Safety Standard Part 28. "Personnel Hoisting in Steel Erection," R 408.42801 to R 408.42809.

(c) Construction Safety Standard Part 45. "Fall Protection," R 408.44501 to R 408.44502.

R 408.42644 Falling object protection.

Rule 2644. (1) Securing loose items aloft. All materials, equipment, and tools that are not in use while aloft shall be secured against accidental displacement.

(2) Protection from falling objects other than materials being hoisted. The controlling contractor shall bar other construction processes below steel erection unless overhead protection for the employees below is provided.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State on January 9, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.10421 of the Michigan Administrative Code is amended and R 408.10413 of the Code is rescinded as follows:

PART 4. PORTABLE LADDERS

R 408.10413. Rescinded.

R 408.10421. Portable wood ladders, metal and wood parts.

Rule 421. (1) The strength of metal parts and fittings of a portable wood ladder shall not be less than the design requirements of the ladder to which they are affixed.

(2) Wood parts shall meet the American National Standards Institute (ANSI) standard A 14.1, "Portable Wood Ladders," 1975 edition, which is incorporated herein by reference. This standard is available for inspection at the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, MI 48909, and may be purchased from IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at the website: <http://global.ihs.com>; at a cost as of the time of adoption of these rules of \$20.00.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State on January 10, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a (6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.10509, R 408.10541, R 408.10570, R 408.10579, R 408.10580, R 408.10582, and R 408.10590 of the Michigan Administrative Code, are amended as follows:

PART 5. SCAFFOLDING GENERAL PROVISIONS

R 408.10509. Adoption of standards by reference; access to other MIOSHA rules.

Rule 509. (1) The standards specified in this rule, except for the standards specified in subrule (2) of this rule, are adopted in these rules by reference.

(a) The following standards are available from IHS/Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>; at a cost as of the time of adoption of these rules, as stated in this subrule:

(i) American National Society Institute Standard ANSI A120.1 'Safety Requirement for Powered Platforms for Exterior Building Maintenance,' 1970 edition, also known as American Society of Mechanical Engineers Standard ASME A120.1 'Safety Requirements Powered Platforms and Traveling Ladders and Gantries for Building Maintenance,' 1970 edition. Cost \$20.00

(ii) American National Society Institute Standard ANSI A12.1 'Safety Requirements for Floor and Wall Openings, Railings and Toeboard,' 1967 edition. Cost \$20.00.

(b) The federal occupational safety and health administration's 29 C.F.R. §1910.66 "Powered Platforms, Manlifts, and Vehicle-Mounted Work Platforms," Appendix D "Exisiting Installations (Mandatory)" promulgated by the United States department of labor, is adopted by reference in this rule and is available from the United States Department of Labor, Occupational Safety and Health Administration, 315 West Allegan, room 315, Lansing, Michigan, 48917, or via the internet at website www.osha.gov, at no charge as of the time of adoption of these rules. (c) The standards adopted in subrule 1 (a) and (b) of this rule are also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.

(d) Copies of the standards adopted in subrule (1) (a) and (b) of this rule may be obtained from the publisher or may also be obtained from the Department of Licensing and Regulatory Affairs, MIOSHA

Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143, at the cost charged in subrule (1) (a) and (b), of this rule, plus \$20 for shipping and handling.

(2) The following Michigan Occupational Safety and Health Standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at web-site: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(a) General Industry Safety Standard Part 2. Floor and Wall Openings, Stairways and Skylights, R 408.10201 to R 408.10241.

(b) General Industry Safety Standard Part 3. Fixed Ladders, R 408.10301 to R 408.10372.

(c) General Industry Safety Standard Part 4. Portable Ladders, R 408.10401 to R 408.10456.

(d) General Industry Safety Standard Part 7. Guards for Power Transmission, R 408.10701 to R 408.10765.

(e) General Industry Safety Standard Part 8. Portable Fire Extinguishers, R 408.10801 to R 408.10839.

(f) General Industry Safety Standard Part 21. Powered Industrial Trucks, R 408.12101 to R 408.12193.

(g) General Industry Safety Standard Part 33. Personal Protective Equipment, R 408.13301 to R 408.13398.

(h) General Industry Safety Standard Part 39. Design Safety Standards for Electrical Systems, R 408.13901 to R 408.13902.

(i) General Industry Safety Standard Part 58. Aerial Work Platforms, R 408.15801 to R 408.15842.

R 408.10541. Scaffolding generally.

Rule 541. (1) Manufactured scaffolding shall be erected and used as specified by the manufacturer's instructions.

(2) Manufactured scaffolding shall be erected by a competent and experienced employee.

(3) Stationary manufactured scaffolding shall be tied to and braced against a building at intervals not to exceed 30 feet horizontally and 26 feet vertically or otherwise guyed.

(4) Adjusting screws on stationary manufactured scaffolding shall have an adjustment of not more than 18 inches from baseplate to bottom of frame with a minimum of 6 inches retained within the frame.

(5) Before a metal scaffold is erected near an exposed powerline, the utility or property owner shall be consulted. A power line or electrical apparatus shall be considered energized unless the property owner or utility indicates it is deenergized and the line or apparatus is visibly grounded. Where deenergizing is impracticable, the following minimum clearances shall be maintained:

Voltage	Clearance
To 50 kV	10 feet
Over 50 kV	10 feet + .4 inch per kV

R 408.10570. Controls and interlocks.

Rule 570. Where a roof car is used, safety interlocks shall be provided to ensure that the working platform will not leave the stored position until the required positive position anchor is engaged and to ensure that the roof car cannot move when the working platform is not in the stored position.

R 408.10579. Inspection of related building supporting structures; equipment inspection and testing intervals; certification record; employer inspection of platforms.

Rule 579. (1) Related building supporting structures shall undergo periodic inspection by a competent person at intervals of not more than 12 months.

(2) All parts of the equipment, including control systems, shall be inspected and, where necessary, tested by a competent person at intervals specified by the manufacturer and supplier, but not more than 12 month intervals, to determine that equipment parts are in safe operating condition. Parts that are subject to wear, such as wire ropes, bearings, gears, and governors, shall be inspected or tested to determine that they have not worn to such an extent as to affect the safe operation of the installation.

(3) The owner shall keep a certification record of each inspection and test required. The record shall include all of the following information:

(a) The date of the inspection.

(b) The signature of the person who performed the inspection.

(c) The number, or other identifier, of the building support structure and equipment that was inspected. This certification record shall be kept readily available for review by the director of the Michigan department of licensing and regulatory affairs or his or her representative and by the employer.

(4) Working platforms and their components shall be inspected by the employer for visible defects before every use and after each occurrence that could affect the platform's structural integrity.

R 408.10580. Intervals of maintenance inspections and tests; certification record.

Rule 580. (1) A maintenance inspection and, where necessary, a test shall be made of each platform installation every 30 days. If the work cycle is less than 30 days, such inspection and test shall be made before each work cycle. This inspection and test shall follow the procedures recommended by the manufacturer and shall be made by a competent person.

(2) The building owner shall keep a certification record of each inspection and test performed. The record shall contain all of the following information:

(a) The date of the inspection and test.

(b) The signature of the person who performed the inspection or test.

(c) An identifier for the platform installation that was inspected.

The certification record shall be kept readily available for review by the director of the Michigan department of licensing and regulatory affairs or his or her designated representative and by the employer.

R 408.10582. Wire rope; reinforcement; use of metal thimble, end fittings; requirements for use of wire clips; cutting preparation; lubrication; use of suspension wire rope to follow procedures recommended by manufacturer; inspection of suspension wire rope; certification record.

Rule 582. (1) Wire rope for a scaffold shall be replaced if any of the following conditions exists:

(a) In any length of 8 diameters, the total number of visible broken wires is more than 6 in 1 rope lay or 3 wires in 1 strand.

(b) The wire rope has been kinked, crushed, or bird-caged or has sustained any other damage that distorts the wire rope structure.

(c) The wire rope shows heat or corrosive damage.

(d) The wire rope contains a broken wire within 18 inches (460.8 mm) of the end attachment.

(2) Wire rope that is bent to form an eye over a bolt or rod which has a diameter that is less than 4 times the rope diameter shall be equipped with a metal thimble.

(3) End fittings should be swagged or zinc-poured sockets.

(4) Where wire clips are used, the provisions of table 8 shall be followed and the u-bolts shall be installed on the dead end or short end of the wire rope.

(5) Wire rope shall be stored in a manner to prevent damage or deterioration.

(6) Before cutting wire rope, a seizing shall be placed on each side of the cut on preformed wire rope, 2 seizings shall be placed on each side of 7/8 inch size or smaller nonpreformed wire rope, and 3 seizings shall be placed on each side of 1 inch or larger size nonpreformed wire rope.

(7) Wire rope shall be maintained in a lubricated condition over its entire length with the same type of lubricant that is used by the manufacturer.

(8) Suspension wire ropes shall be maintained and used in accordance with the procedures recommended by the wire rope manufacturer.

(9) Suspension wire rope shall be inspected by a competent person for visible defects and gross damage to the rope before every use and after each occurrence that might affect the wire rope's integrity.

(10) A thorough inspection of suspension wire ropes in service shall be made once a month. Suspension wire ropes that have been inactive for 30 days or more shall have a thorough inspection before they are placed into service. These thorough inspections of suspension wire ropes shall be performed by a competent person.

(11) The need for replacement of suspension wire rope shall be based on its condition. A wire rope shall be removed for any of the following conditions:

(a) Evidence of core failure. A lengthening of rope lay, protrusion of the rope core, and a reduction in rope diameter suggests core failure.

(b) Outer wire wear is more than 1/3 of the original outer wire diameter.

(c) Any other condition that the competent person determines has significantly affected the integrity of the rope.

(12) The owner shall keep a certification record of each monthly inspection of a suspension wire rope which shall be verified by the employer. The record shall include the date of the inspection and a number or other identifier of the wire rope that was inspected. The record of inspection shall be made available for review by the director of the Michigan department of licensing and regulatory affairs or his or her designated representative and by the employer.

R 408.10590. Platform operator training.

Rule 590. (1) Working platforms shall be operated only by persons who are proficient in the operation, safe use, and inspection of the particular working platform to be operated.

(2) All employees who operate working platforms shall be trained in all of the following areas:

(a) Recognition of, and preventative measures for, the safety hazards that are associated with the employee's individual work tasks.

(b) General recognition and prevention of safety hazards that are associated with the use of working platforms.

(c) Emergency action plan procedures.

(d) Work procedures.

(e) Personal fall arrest system inspection, care, use, and system performance.

(3) The training of employees in the operation and inspection of working platforms shall be done by a competent person.

(4) Written work procedures for the operation, safe use, and inspection of working platforms shall be provided for employee training. Pictorial methods of instruction may be used in place of written work procedures if employee communication is improved through the use of this method. The operating manuals that are supplied by the manufacturers for platform system components can serve as the basis for these procedures.

(5) An employer shall certify that employees have been trained in the operation and inspection of a working platform by preparing a certification record that includes all of the following information:

(a) The identity of the person trained.

(b) The signature of the employer or the person who conducted the training.

(c) The date that training was completed.

The certification record shall be prepared at the completion of the training and shall be maintained in a file for the duration of the employee's employment. The certification record shall be kept readily available for review by the director of the Michigan department of licensing and regulatory affairs or his or her designated representative.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State January 10, 2013

These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.10765 of the Michigan Administrative Code is amended and R 408.10761 and R 408.10763 are rescinded as follows:

PART 7. GUARDS FOR POWER TRANSMISSION

R 408.10761. Rescinded.

R 408.10763. Rescinded.

R 408.10765. Inspection and care of equipment; clothing for oilers.

Rule 765. (1) All power-transmission equipment shall be inspected at intervals not exceeding 60 days and be kept in good working condition at all times.

(2) Shafting shall be kept in alignment, free from rust and excess oil or grease.

(3) Where explosives, explosive dusts, flammable vapors, or flammable liquids exist, the hazard of static sparks from shafting shall be carefully considered.

(4) Bearings shall be kept in alignment and properly adjusted.

(5) Hangers shall be inspected to make certain that all supporting bolts and screws are tight and that supports of hangers boxes are adjusted properly.

(6) Pulleys shall be kept in proper alignment to prevent belts from running off.

(7) Inspection shall be made of belts, lacings, and fasteners, and such equipment shall be kept in good repair.

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State January 10, 2013

These rules become effective 14 days after filing with the Secretary of State

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.10801, R 408.10807 and R 408.10823 of the Michigan Administrative Code are amended, as follows:

PART 8. PORTABLE FIRE EXTINGUISHERS

R 408.10801. Scope.

Rule 801. (1) The rules of this part apply to the installation, use, inspection, maintenance and testing of portable fire extinguishers in, around and about places of employment. The provisions of this part are the minimum requirements for portable fire extinguishers. A specific rule may be set forth in other general industry safety standards where, due to process hazards, additional portable fire extinguishers may be required.

(2) Where the employer has established and implemented a written fire safety policy which requires the immediate and total evacuation of employees from the workplace upon the sounding of a fire alarm signal and which includes an emergency action plan and a fire prevention plan which meet the requirements of General Industry Safety Standard Part 6 "Fire Exits," R 408.10623 and R 408.10624 respectively, and when extinguishers are not available in the workplace, the employer is exempt from all requirements of this standard unless a specific General Industry standard requires that a portable fire extinguisher be provided.

R 408.10807. Obtaining referenced standards.

Rule 807. (1) The following referenced standards are available for review at the offices of the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, Lansing, Michigan 48909-8143, and are available as follows:

(a) The Code of Federal Regulations, Title 49, Transportation, Volume 2, Chapter I, Parts 100 to 177 stock number: 869-074-00212-1 and The Code of Federal Regulations, Title 49, Transportation, Volume 3, Chapter I, Parts 178 to 199-stock number: 869-074-00213-9, may be obtained from the U.S. Government Printing Office, Washington DC, 20402; telephone number: 888-293-6498; or via the internet at website: <http://bookstore.gpo.gov>; at a cost, as of the time of adoption of these rules of \$70.00 each.

(b) The following Michigan occupational safety and health standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no charge from the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, as of the time of adoption of these rules, is 4 cents per page.

(i) General industry safety standard part 9 “Fixed Fire Equipment,” R 408.10901 to R 408.10999.

(ii) General industry safety standard part 6 “Fire Exits,” R 408.10601 to R 408.10697.

R 408.10823. Class “B” extinguishers.

Rule 823. (1) A class “B” extinguisher shall be provided according to the severity of the hazard listed in table 4, except as required by subrule (3) of this rule.

(2) A foam extinguisher only of a lower rating, not to exceed 3, may be used to fulfill this rule.

(3) An open tank in a building having flammable liquids in depth exceeding 1/4 inch shall be provided with an extinguisher on a basis of 1 numerical unit of class “B” extinguishing agent per square foot of the surface area of the largest tank hazard within the area. An open tank in a building having an area of more than 100 square feet shall be provided with a fixed extinguishing system in addition to the required portable units. An open tank in a building having an area of more than 100 square feet and protected by a fixed system shall be provided with portable units to protect an area to a maximum of 100 square feet.

(4) Travel distance to the nearest class “B” extinguisher in a building shall be not more than 50 feet. A class “B” extinguisher of a higher rating may be used but the travel distance shall be not more than 50 feet.

(5) Widely separated hazards, such as, but not limited to kitchens, boiler rooms, and paint storage rooms shall be protected with an extinguisher for the type of hazard present, if the travel distance exceeds 25 feet.

(6) Table 4 reads as follows:

Table 4

(For Extinguishers labeled prior to June 1, 1969)

TYPE OF HAZARD	<u>BASIC MINIMUM EXTINGUISHER RATING</u>
LIGHT	4B
ORDINARY	8B
EXTRA	12B
<u>(For Extinguishers labeled after June 1, 1969)</u>	
TYPE OF HAZARD	BASIC MINIMUM EXTINGUISHER RATING

LIGHT	5B 10B
ORDINARY	10B 20B
EXTRA	20B 40B

ADMINISTRATIVE RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS

Filed with the Secretary of State on January 10, 2013

These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the director of the department of licensing and regulatory affairs by sections 16 and 21 of 1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030)

R 408.10914, R 408.10925, and R 408.10999 of the Michigan Administrative Code are amended, as follows:

PART 9. FIXED FIRE EQUIPMENT

R 408.10914. Requirements.

Rule 914. (1) A fixed fire equipment system, as listed in R 408.10921 and R 408.10941 to R 408.10976, shall be installed for all of the following:

(a) All areas inside a building where flammable liquids are mixed, dispensed or applied, or used for washing or quenching, except either of the following:

(i) A dip tank holding less than 150 gallons, having less than 4 square feet of liquid surface or both.

(ii) As dispensed from an approved safety container of 5 gallons or less.

(b) Other areas where the quantities of flammables are likely to burn rapidly and injure a nearby employee. Such a system shall be classed according to table 1. Other equivalent systems may be used, if such systems meet standards or tests of the department of licensing and regulatory affairs and are installed and maintained in accordance with nationally recognized requirements.

(2) Where a fixed fire equipment system is required or is installed and in use, it shall be installed and maintained as prescribed in R 408.10916 to R 408.10984.

(3) Except as prescribed in R 408.10971, a fixed fire equipment system containing an active agent or propellant whose thermal decomposition product of products have a level of vapor toxicity equal to or greater than any of the materials listed in table 2 shall not be used, installed for use, or allowed to remain installed for use where an employee would be exposed to the agent or propellant.

TABLE 1

HAZARD	EXTINGUISHER AGENT TYPE AND CONTENTS
CLASS A	FIRE FOAM, MULTI-PURPOSE DRY CHEMICAL, HALOGENATED AGENTS, WATER.
CLASS B	CARBON DIOXIDE, DRY

FIRE	CHEMICAL, FOAM, WATER, MULTIPURPOSE DRY CHEMICAL, HALOGENATED AGENTS SUCH AS HALON 1301.
CLASS C FIRE	CARBON DIOXIDE, DRY CHEMICAL, MULTI-PURPOSE DRY CHEMICAL, WATER MIST, HALOGENATED AGENTS.
CLASS D FIRE	EXTINGUISHING AGENT LISTED FOR USE ON A SPECIFIC COMBUSTIBLE METAL HAZARD.

TABLE 2

1. Carbon tetrachloride, CCL ₄
2. Chlorobromomethane, CH ₂ Br CL
3. Azeotropic chlormethane, CM ₇
4. Dibromodifluoromethane, CBr ₂ F ₂
5. 1, 2-dibromo-2 chloro-1, 1, 2-trifluorothane, Cbr F ₂ CBrCLf
6. 1, 2-dibromo-2, 2-difluorothane, CH ₂ BrCBrF ₂
7. Methyl bromide, CH ₃ Br
8. Ethylene dibromide, CH ₂ BrCH ₂ Br
9. Hydrogen bromide, HRr
10. Methylene bromide, CH ₂ Br ₂
11. Bromodifluoromethane, CHBrF ₂

R 408.10925. Inspection and maintenance.

Rule 925. (1) A sprinkler shall not be painted or coated except by the sprinkler manufacturer. Excepted are petroleum jelly or paper bag coverings, which shall not interfere with the normal functioning of the sprinkler.

(2) An automatic sprinkler shall be replaced with a new sprinkler after it is installed 50 years or shows evidence of corrosion, leakage, or damage.

(3) A sprinkler wrench shall be used for installing and removing a sprinkler.

(4) A broken or loose pipe hanger shall be replaced or refastened.

(5) The employer shall perform a main drain flow test on each system annually. The inspectors test valve shall be opened not less than every 2 years to assure the system operates properly.

R 408.10999. Reference standards.

Rule 999. The N.F.P.A. standards herein referred to are incorporated by reference. The standards are available for inspection at the Michigan Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909. The standards may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, or via the internet at www.nfpa.org at a cost as of the time of adoption of these rules, as stated in this rule:

(a) N.F.P.A. #13-1980, Installation of Sprinkler Systems, cost \$27.00 each.

- (b) N.F.P.A. #14-1980, Standpipe and Hose Systems, cost \$27.00 each.
- (c) N.F.P.A. #12-1980, Carbon Dioxide Extinguishing Systems, cost \$27.00 each.
- (d) N.F.P.A. #17-1980, Dry Chemical Extinguishing Systems, cost \$27.00 each.
- (e) N.F.P.A. #11-1978, Foam Extinguishing Systems, cost \$27.00 each.
- (f) N.F.P.A. #11A-1981, High Expansion Foam Systems, cost \$27.00 each.
- (g) N.F.P.A. #11B-1977, Synthetic Foam and Combined Agent Systems, cost \$27.00 each.
- (h) N.F.P.A. #16-1980, Foam-Water Sprinkler Systems and Foam-Water Spray Systems, Cost \$27.00 each.
- (i) N.F.P.A. #12A-1980, Halogenated Fire Extinguishing Agent Systems – Halon 1301, cost \$27.00 each.
- (j) N.F.P.A. #72A-1979, Installation, Maintenance & Use of Local Protective Signaling Systems for Watchmen, Fire Alarm & Supervisory Service, cost \$27.00 each.
- (k) N.F.P.A. #72E-1982, Automatic Fire Detection Systems, Cost \$27.00 each.

**PROPOSED ADMINISTRATIVE RULES,
NOTICES OF PUBLIC HEARINGS**

MCL 24.242(3) states in part:

“... the agency shall submit a copy of the notice of public hearing to the Office of Regulatory Reform for publication in the Michigan register. An agency's notice shall be published in the Michigan register before the public hearing and the agency shall file a copy of the notice of public hearing with the Office of Regulatory Reform.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(d) Proposed administrative rules.

(e) Notices of public hearings on proposed administrative rules.”

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF HUMAN SERVICES

DIRECTOR'S OFFICE

LICENSING RULES FOR CHILD CARE CENTERS

Proposed Draft January 15, 2013

Filed with the secretary of state on

These rules take 180 days after filing with the Secretary of State unless adopted under section 33, 34, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the Department of Human Services by section 2 of 1973 PA 116, Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2004-4, MCL 722.112, 330.3101, 445.2001, 445.2011, and 400.226.)

R 400.5101, 400.5102, 400.5102a, 400.5103, 400.5103a, 400.5104, 400.5104a, 400.5104b, 400.5105, 400.5106, 400.5107, 400.5108, 400.5109, 400.5109a, 400.5110, 400.5111, 400.5111a, 400.5111b, 400.5113a, 400.5113b, 400.5113c, 400.5114, 400.5115, 400.5116, 400.5117, 400.5118, 400.5201a, 400.5201b, 400.5202a, 400.5204, 400.5204a, 400.5205, 400.5205a, 400.5205b, 400.5206, 400.5209, 400.5301, 400.5302, 400.5303, 400.5303a, 400.5305, 400.5306, 400.5307, 400.5501, 400.5502, 400.5502a, 400.5502b, 400.5502c, 400.5601, 400.5602, 400.5603, 400.5604, 400.5605, 400.5606, 400.5607, 400.5610, 400.5611, 400.5613, 400.5615, 400.5801, 400.5805, 400.5810, 400.5815, 400.5820, 400.5825, 400.5835, 400.5840, 400.5841, 400.5845, 400.5850, 400.5856, 400.5865, 400.5870, 400.5900a, 400.5901, 400.5902, 400.5902a, 400.5902b, 400.5902c, 400.5902d, 400.5903, 400.5905, 400.5910, 400.5915, 400.5920, 400.5925, 400.5930, 400.5935, 400.5940 of the Michigan Administrative Code are rescinded and R 400.8101, 400.8104, 400.8107, 400.8110, 400.8113, 400.8116, 400.8119, 400.8122, 400.8125, 400.8128, 400.8131, 400.8134, 400.8137, 400.8140, 400.8143, 400.8146, 400.8149, 400.8152, 400.8155, 400.8158, 400.8161, 400.8164, 400.8167, 400.8170, 400.8173, 400.8176, 400.8179, 400.8182, 400.8185, 400.8188, 400.8191, 400.8301, 400.8305, 400.8310, 400.8315, 400.8320, 400.8325, 400.8330, 400.8335, 400.8340, 400.8345, 400.8350, 400.8355, 400.8360, 400.8365, 400.8370, 400.8375, 400.8380, 400.8385, 400.8501, 400.8505, 400.8510, 400.8515, 400.8520, 400.8525, 400.8530, 400.8535, 400.8540, 400.8545, 400.8550, 400.8555, 400.8560, 400.8565, 400.8701, 400.8710, 400.8720, 400.8730, 400.8740, 400.8750, 400.8760, 400.8770, 400.8801, 400.8810, 400.8820, 400.8830, 400.8840 are added. to the Code as follows:

PART 1. GENERAL

R 400.5101—Definitions.—Rescinded.

—Rule 101. As used in these rules:

- ~~–(a) "Accredited college or university" means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the U.S. department of education.~~
- ~~–(b) "Ages" means all of the following:~~
- ~~–(i) "Infant" birth to 11 months of age.~~
- ~~–(ii) "Young toddler" 12 to 29 months of age.~~
- ~~–(iii) "Older toddler" 30 to 35 months of age.~~
- ~~–(iv) "School age" means attending kindergarten or a higher grade but less than 13 years of age.~~
- ~~–(c) "Caregiver" means an adult who provides direct care, supervision, and guidance of children. A 17-year-old shall qualify as a caregiver if he or she meets 1 of the following:~~
- ~~–(i) Has satisfactorily completed at least 1 year of a vocational-occupational child care aide training program approved by the department of labor and economic growth.~~
- ~~–(ii) Has completed 1 year of apprenticeship in a recognized child care apprenticeship program sponsored by the U.S. department of labor.~~
- ~~–(d) "Center" means a child care center or day care center which is a facility other than a private residence, which receives 1 or more preschool or school age children for care for periods of less than 24 hours a day, and at which the parents or guardians are not immediately available to the children. It includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child care center, day care center, day nursery, nursery school, parent cooperative preschool, prekindergarten, play group, or drop-in center. "Center" does not include any of the following:~~
- ~~–(i) A Sunday school, a vacation Bible school, or a religious instructional class which is conducted by a religious organization and at which children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period, or a facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious instruction.~~
- ~~–(ii) A special education program or service conducted under the authority of~~ Draft July 20, 2012 451,
~~MCL 380.1701 to 380.1766.~~
- ~~–(iii) A kindergarten, elementary, or secondary school program operated by a local or intermediate school district under the authority of 1976 PA 451, MCL 380.1 et seq. However, this exemption shall not apply to a prekindergarten program or to a child care center program for school age children operated by a local or intermediate school district.~~
- ~~–(iv) An elementary or secondary school program operated by a nonpublic school. However, this exemption shall not apply to a prekindergarten program or a child care center program for school age children operated by a nonpublic school.~~
- ~~–(v) A kindergarten operated as part of a nonpublic elementary school. However, this exemption shall not apply to a nonpublic kindergarten operated as part of a child care center.~~
- ~~–(vi) A program that is primarily supervised, school age child focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school age child focused training.~~
- ~~–(vii) A program that is primarily an incident of group athletic or social activities for school age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school age recreational or supplementary education programs. This exclusion applies only to the time the school age child is engaged in the group athletic or social activities and if the school age child can come and go at will.~~
- ~~–(e) "CEU" means a continuing education unit awarded by a state board of education or an accredited college/university sponsor of continuing education units.~~

- ~~–(f) "Critical height" means the height of the highest designated play surface on a piece of playground equipment.~~
- ~~–(g) "Department" means the department of human services.~~
- ~~–(h) "Developmentally appropriate" means age appropriate as well as appropriate to the individual child.~~
- ~~–(i) "Field trip" means children and caregivers leaving the child care center premises for an excursion, trip, or program activity.~~
- ~~–(j) "Group size" means the specified number of children assigned to a caregiver or team of caregivers occupying an individual classroom or well-defined space for each group within a larger room. Two or more groups may be combined for collective activities as long as appropriate child/staff ratios are maintained in the room or area.~~
- ~~–(k) "Parent" or "parental" means a child's natural parent, guardian, or another legally responsible person.~~
- ~~–(l) "Playspace" means a piece or pieces of equipment that 1 child can use independently for 15 minutes.~~
- ~~–(m) "Recommended dietary allowances" means the amount of food which meet the allowances recommended by the national research council and contained in the appendix of the publication entitled "Recommended Dietary Allowances," 10th edition, 1989. This publication is hereby adopted by reference. Copies of the adopted matter may be obtained from the National Academy of Sciences, 500 Fifth St. N.W., Washington, D.C. 20001 at a cost as of the effective date of this rule of \$24.95.~~
- ~~–(n) "School" means a building or part of a building which is owned or leased by, or under the control of, a public or private school or school system for the purpose of instruction as required by 1976 PA 451, MCL 380.1561 which is occupied by 6 or more students, and which is used 4 or more hours per day or more than 12 hours per week.~~
- ~~–(o) "Sleeping equipment" means a crib, bed, porta-crib, cot, or mat used by children in care for sleeping and resting.~~
- ~~–(p) "Staff" means caregivers, drivers, kitchen personnel, maintenance personnel, and other personnel of the center as well as the program director.~~
- ~~–(q) "Well-defined space" means space designed and used exclusively for a specific group of children.~~

R 400.5102–Licensee. Rescinded.

- ~~–Rule 102. (1) The licensee shall do all of the following:~~
 - ~~–(a) Demonstrate to the department that he or she is of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47, and is suitable to meet the needs of children.~~
 - ~~–(b) Comply with 1973 PA 116, MCL 722.115c requirements for a Michigan department of state police criminal history record check, a criminal records check through the federal bureau of investigation, and a department of human services check for a history of substantiated abuse and neglect.~~
 - ~~–(c) Be responsible for compliance with 1973 PA 116, MCL 722.111 and the rules promulgated under the act.~~
- ~~(2) The licensee shall have the following administrative responsibilities regarding staff:~~
 - ~~–(a) Notify and submit credentials to the department for approval within 30 days of hiring a new program director.~~
 - ~~–(b) Perform a criminal history check using the Michigan department of state police's internet criminal history access tool (ICHAT) before making an offer of employment to a person.~~
 - ~~–(c) Develop and implement a written screening policy for all staff and volunteers, including parents, who have contact with children.~~

- ~~–(d) Develop and implement a written plan to assure compliance with the provisions of 1975 PA 238, MCL 722.621 and known as the child protection law.~~
- ~~–(e) Have a written statement signed and dated by staff at the time of hiring indicating all of the following information:~~
 - ~~–(i) The individual is aware that abuse and neglect of children is against the law.~~
 - ~~–(ii) The individual has been informed of the center's policies on child abuse and neglect.~~
 - ~~–(iii) The individual knows that caregivers are required by law to immediately report suspected abuse and neglect to children's protective services.~~
- ~~–(3) The licensee shall provide for the development and implementation of a written, on-going staff training plan that includes the following:~~
 - ~~–(a) The minimum training requirements as established in these rules.~~
 - ~~–(b) Topics including child development, curriculum, child discipline, health/safety, nutrition, working with parents, and licensing rules for child care centers.~~
- ~~–(4) The licensee shall post the following in a place visible to parents:~~
 - ~~–(a) The current license.~~
 - ~~–(b) A copy of the current regulations.~~
 - ~~–(c) A notice stating whether the child care center requires a criminal history check on its employees or volunteers.~~
- ~~–(5) The licensee shall assure that the actual number and ages of children in care at any 1 time never exceeds the number and ages of children for which a center is licensed.~~
- ~~–(6) The licensee shall assure that a child is released only to persons authorized by the parent. Both of the following shall apply:~~
 - ~~–(a) A child shall be released to either parent unless a court order prohibits release to a particular parent.~~
 - ~~–(b) A copy of the order specified in subdivision (a) of this subrule is to be kept on file at the center.~~
- ~~–(7) The licensee shall cooperate with the department in connection with an inspection or investigation. Cooperation shall include both of the following:~~
 - ~~–(a) The licensee shall provide access to all records, materials, and staff.~~
 - ~~–(b) Information provided by the licensee to the department shall be accurate and truthful.~~
- ~~–(8) The licensee shall retain the name, address, and telephone number for each child enrolled and each employee for at least 4 years after they have left the center.~~
- ~~–(9) The licensee shall assure that smoking does not occur in or during either of the following:~~
 - ~~–(a) In the child care center or on real property that is under the control of the child care center and upon which the child care center is located.~~
 - ~~–(b) On field trips and in vehicles when children are present.~~

R 400.5102a–Staff training requirements.–Rescinded.

- ~~–Rule 102a. (1) At least 1 caregiver with current certification in infant, child, and adult CPR and current first aid certification shall be on duty in the center at all times.~~
- ~~–(2) The licensee shall assure that within 1 year of the effective date of these rules current caregivers have completed blood borne pathogen training.~~
- ~~–(3) The licensee shall assure that within 6 months of initial hire each caregiver completes blood-borne pathogen training.~~
- ~~–(4) All caregivers shall complete 12 clock hours of annual training on topics referenced in R 400.5102(3)(b), not including CPR, first aid, and blood borne pathogen training.~~
- ~~–(5) Annual training hours may include participation in any of the following:~~

- ~~-(a) In-service trainings.~~
- ~~-(b) Sessions offered by community groups, faith-based organizations, and child care provider associations.~~
- ~~-(c) Workshops and courses offered by local or intermediate school districts or colleges.~~
- ~~-(d) Trainings, workshops, seminars, and conferences on early childhood, child development or child care administration and practices offered by early childhood organizations.~~
- ~~-(e) On-line trainings.~~
- ~~-(6) The licensee shall assure that caregivers for infants and toddlers have training that includes information about safe sleep and shaken baby syndrome prior to caring for infants and toddlers.~~
- ~~-(7) The center shall keep on file verification of all professional development education or training, as required by this rule.~~

R 400.5103–Program director qualifications; responsibilities. Rescinded.

~~–Rule 103. For purposes of this rule:~~

- ~~-(a) "Child related fields" means elementary education, child guidance/counseling, child psychology, family studies, and social work.~~
- ~~-(b) "Child care administration" means child care administration, education administration, or business administration.~~
- ~~-(c) A "Child Development Associate Credential" (CDA) means a credential awarded by the council for professional recognition or similar credential approved by the department.~~
- ~~-(d) A "Montessori credential" means a credential issued by the association Montessori internationale (AMI), American Montessori society (AMS), or any Montessori teaching training institution recognized by the Montessori accreditation council for teacher education (MACTE) that meets or exceeds 270 hours of academic training.~~
- ~~-(e) Degrees and semester hours shall be from an accredited college or university.~~
- ~~-(1) A program director shall be present at the following:~~
 - ~~-(a) Full time for programs operating less than 6 continuous hours, when children are present.~~
 - ~~-(b) At least 50% of the time children are in care, but not less than a total of 6 hours for programs operating 6 or more continuous hours.~~
- ~~-(2) A program director shall have the following qualifications:~~
 - ~~-(a) Be at least 21 years of age.~~
 - ~~-(b) Have earned a high school diploma or ged.~~
 - ~~-(c) Have current certification in infant, child, and adult cardiopulmonary resuscitation (cpr) and first aid.~~
 - ~~-(d) Complete 12 clock hours of annual training on topics referenced in R 400.5102(3)(b), in addition to cpr, first aid, and blood borne pathogen training.~~
 - ~~-(e) Develop, implement, and evaluate center policies and program.~~
 - ~~-(f) Administer day to day operations including being available to address parent, child, and staff issues.~~
 - ~~-(g) Monitor and evaluate staff.~~
- ~~-(3) The center shall ensure that the qualifications of the program director meet 1 of the following:~~
 - ~~Education _____ Semester hours in early childhood education or Hours of Experience in child development _____~~
 - ~~(a) Bachelor's degree or higher in early childhood education or child development _____~~
 - ~~(b) Bachelor's degree or higher in a child related field with >18 semester hours with > 480 hours~~
 - ~~(c) Associate's degree in early childhood education or child development with > _____ 18 semester hours with >480 hours~~

~~(d) Montessori credential with >18 semester hours with >960 hours~~

~~(e) Child development associate credential with >18 semester hours with >960 hours~~

~~(f) 60 semester hours with >18 semester hours with >1920 hours~~

~~–(4) A program director shall have at least 2 semester hours in child care administration from an accredited college or university, or a minimum of~~

~~3.0 ceus in child care administration.~~

~~–(5) A program director, currently employed as a program director before the effective date of these rules, with a minimum of 2 years experience as a program director, shall be exempt from the requirements in subrules (3) and (4) of this rule.~~

~~–(6) Program directors, currently employed as a program director before the effective date of these rules, with less than 2 years experience as a program director, shall have 2 calendar years to complete the requirements in subrules (3) and (4) of this rule.~~

~~–(7) Program directors hired within 1 year after the effective date of these rules who have the minimum of 1 of the following requirements shall have 1 year to complete the requirements in subrules (3) and (4) of this rule:~~

~~–(a) Sixty semester hours of credit at an accredited college or university with not less than 12 semester hours in child development, child psychology, or early childhood education.~~

~~–(b) The child development associate credential awarded by the council for professional recognition or similar credential approved by the department with not less than 12 semester hours in child development, child psychology, or early childhood education at an accredited college or university.~~

~~–(c) A Montessori credential awarded by a Montessori teacher training institution recognized by the Montessori accreditation council for teacher education (MACTE).~~

~~–(8) A program director shall appoint a substitute for a lead caregiver who has an absence that exceeds 30 consecutive workdays until return~~

~~or replacement of the lead caregiver. A substitute shall meet the qualifications of the lead caregiver or be currently enrolled in relevant training.~~

~~–(9) The center shall keep on file verification of the educational qualifications of the program director and the credential qualifications, as applicable.~~

R 400.5103a–Lead caregiver qualifications; responsibilities. Rescinded.

~~–Rule 103a. (1) For purposes of this rule, lead caregiver applies only to groups of children who are less than school age. As used in this rule:~~

~~–(a) "Child-related fields" means elementary education, child guidance/counseling, child psychology, family studies, and social work.~~

~~–(b) "Child care administration" means child care administration, education administration, or business administration.~~

~~–(c) A "Child Development Associate Credential" (CDA) means a credential awarded by the council for professional recognition or similar credential approved by the department.~~

~~–(d) A "Montessori credential" means a credential issued by the association Montessori internationale (AMI), American Montessori society (AMS), or any Montessori teaching training institution recognized by the Montessori accreditation council for teacher education (MACTE) that meets or exceeds 270 hours of academic training.~~

~~–(e) Degrees and semester hours shall be from an accredited college or university.~~

- ~~-(f) "CEU" means a continuing education unit awarded by a state board of education or an accredited college or university sponsor of continuing education units.~~
- ~~-(g) "Hours of experience" means that the experience shall be in a licensed or registered facility serving the ages and developmental abilities of the children the caregiver will care for.~~
- ~~-(2) The lead caregiver shall be responsible for both of the following:~~
 - ~~-(a) Oversee the planning, implementation, and evaluation of the classroom program and child assessment.~~
 - ~~-(b) Oversee caregiving staff for a specific group of children and overall care and supervision of children.~~
- ~~-(3) At least 1 lead caregiver shall be assigned to each group of children in self-contained or well-defined space and shall be present and providing care in the assigned group in the following manner:~~
 - ~~-(a) Full time for programs operating less than 6 continuous hours.~~
 - ~~-(b) At least 6 hours per day for programs operating 6 or more continuous hours.~~
- ~~-(4) The lead caregiver shall have the following qualifications:~~
 - ~~-(a) Be at least 19 years of age.~~
 - ~~-(b) Have a high school diploma or GED.~~
 - ~~-(c) Have current certification in infant, child, and adult cardiopulmonary resuscitation (CPR) and first aid.~~
- ~~-(5) The center shall ensure that the qualifications of the lead caregiver meet 1 of the following:~~

-	Education	Semester Hours/CEUS in a child related field	Hours of Experience
(a)	Bachelor's degree or higher in early childhood education, child development, or a child related field	-	-
(b)	Associate's degree or higher in early childhood education or child development	-	-
(c)	Montessori credential with →	-	480 hours
(d)	Child development associate credential with →	-	480 hours
(e)	High school diploma/GED with →	12 semester hours with →	960 hours
(f)	High school diploma/GED with →	Combination of: 12 semester hours and/or 18 ceus to equal 180 clock hours with →	1920 hours
(g)	High school diploma/GED with →	Combination of: 6 semester hours and/or 9 ceus to equal 90 clock hours with →	3840 hours

- ~~-(6) A lead caregiver for infants and toddlers shall have 3 semester hours in infant/toddler development and care practices, from an accredited college or university, or 4.5 CEUs in infant/toddler development and care practices. These hours or CEUs may satisfy a portion of the requirements of subrule (5) of this rule.~~

~~–(7) Within 2 years from the effective date of these rules, the center shall comply with subrule (5) of this rule and, if applicable, subrule (6) of this rule.~~

~~–(8) The center shall keep on file verification of the education, credential, and experience qualifications of each lead caregiver, as applicable.~~

R 400.5104—Staff. Rescinded.

~~Rule 104. (1) All staff shall be of responsible character and suitable to meet the needs of children.~~

~~–(2) A staff member shall not be present in a child care center if he or she has been convicted of either of the following:~~

~~–(a) Child abuse or child neglect.~~

~~–(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.~~

~~–(3) A staff member shall provide the child care center with documentation from the department of human services that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect before having contact with a child in care.~~

R 400.5104a—Volunteers. Rescinded.

~~–Rule 104a. (1) A volunteer shall not have unsupervised contact with children in care if he or she has been convicted of either of the following:~~

~~–(a) Child abuse or child neglect.~~

~~–(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of offering to volunteer at the child care center.~~

~~–(2) A volunteer shall provide the child care center with documentation from the department of human services that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect before having unsupervised contact with a child in care.~~

~~–(3) Each child care center shall establish and maintain a written policy regarding supervision of volunteers, including volunteers who are parents of a child in care.~~

R 400.5104b—Health of staff and volunteers; report. Rescinded.

~~–Rule 104b. (1) The center shall have on file a report, signed by a licensed physician, for each staff member and each volunteer who has contact with children at least 4 hours per week for more than 2 consecutive weeks. This report shall declare, to the best of the physician's knowledge, the physical capability of the staff member or volunteer to perform the duties required. The report shall be signed not more than 6 months before, or 30 days after, the start of employment.~~

~~–(2) The center shall have on file evidence that each staff member and each volunteer who has contact with children at least 4 hours per week for more than 2 consecutive weeks is free from communicable tuberculosis, verified within 1 year before employment.~~

R 400.5105—Supervision and ratio requirements. Rescinded.

~~–Rule 105. (1) The center shall provide appropriate care and supervision of children at all times.~~

~~–(2) A minimum of 2 staff members, 1 of whom is a caregiver, shall be present at all times when 7 or more children over 3 years of age are present.~~

- ~~–(3) The ratio of caregivers to children present at all times shall be based upon all of the following provisions:~~
- ~~–(a) For children 3 years of age, there shall be 1 caregiver for 10 children or each fraction of 10, including children who are related to the staff and the licensee.~~
- ~~–(b) For children 4 years of age, there shall be 1 caregiver for 12 children or each fraction of 12, including children who are related to the staff and the licensee.~~
- ~~–(c) If there are children of mixed ages in the same room or in a well-defined space, then the ratio shall be determined by the age of the youngest child, unless each group of children is clearly separated and the appropriate child/staff ratios for each age group are maintained.~~
- ~~–(4) An exception to the requirements of subrule (2) of this rule may be made when the center is transporting children and is in compliance with R 400.5611(2), (3), and (4).~~
- ~~–(5) For infants, young toddlers, and older toddlers, there shall be a ratio of caregivers to children as required in R 400.5201a.~~
- ~~–(6) For school-age children, there shall be a ratio of caregivers to children as required in R 400.5303a.~~

R 400.5106—Program—Rescinded.

- ~~–Rule 106. (1) A developmentally appropriate program shall be implemented that includes all of the following areas:~~
- ~~–(a) Physical development.~~
- ~~–(b) Social development.~~
- ~~–(c) Emotional development.~~
- ~~–(d) Intellectual development.~~
- ~~–(2) The following types of activities shall be provided daily:~~
- ~~–(a) Quiet and active.~~
- ~~–(b) Individual, small groups, and large groups.~~
- ~~–(c) Large and small muscle.~~
- ~~–(d) Child initiated and staff initiated.~~
- ~~–(e) Developmentally appropriate language and literacy experiences throughout the day accumulating for not less than 30 minutes.~~
- ~~–(f) Early math and science experiences.~~
- ~~–(3) Daily activities shall be planned so that each child may do the following:~~
- ~~–(a) Have opportunities to feel successful and feel good about himself or herself and develop independence.~~
- ~~–(b) Use materials and take part in activities which encourage creativity.~~
- ~~–(c) Learn new ideas and skills.~~
- ~~–(d) Participate in imaginative play.~~
- ~~–(4) Television, video tapes, movies, electronic devices and computers shall be designed for children's education and/or enjoyment, and shall be suitable to the age of the child in terms of content and length of use.~~
- ~~–(a) Programs or movies with violent or adult content shall not be permitted while children are in care.~~
- ~~–(b) Other activities shall be available to children during television/movie viewing.~~
- ~~–(5) A daily activity guide relating to the curriculum and each age group shall be prepared and posted in a place visible to parents or otherwise made available to them.~~

- ~~–(6) The center shall provide daily outdoor play when children are in attendance for 5 or more continuous hours per day, unless prevented by inclement weather or other weather conditions that could result in children becoming overheated or excessively chilled.~~
- ~~–(7) The center shall provide a naptime or quiet time when children under school age are in attendance 5 or more continuous hours per day.~~
- ~~–(8) The center shall provide opportunities to rest for children less than 3 years of age regardless of the number of hours in care.~~
- ~~–(9) The center shall permit infants to eat and sleep on demand.~~
- ~~–(10) The licensee shall, for children with special needs, work with the parents, medical personnel and/or other relevant professionals to provide care according to the child's identified needs.~~
- ~~–(11) The center shall permit parents to visit the program for the purpose of observing their children during hours of operation.~~

R 400.5107—Discipline. Rescinded.

- ~~–Rule 107. (1) The staff shall use positive methods of discipline that encourage self control, self-direction, self esteem, and cooperation.~~
- ~~–(2) The following means of punishment shall be prohibited:~~
 - ~~–(a) Hitting, spanking, shaking, biting, pinching, or inflicting other forms of corporal punishment.~~
 - ~~–(b) Restricting a child's movement by binding or tying him or her.~~
 - ~~–(c) Inflicting mental or emotional punishment, such as humiliating, shaming, or threatening a child.~~
 - ~~–(d) Depriving a child of meals, snacks, rest, or necessary toilet use.~~
 - ~~–(e) Confining a child in an enclosed area, such as a closet, locked room, box, or similar cubicle.~~
- ~~–(3) Non-severe and developmentally appropriate discipline or restraint may be used when reasonably necessary, based on a child's development, to prevent a child from harming himself or herself or to prevent a child from harming other persons or property, excluding those forms of punishment prohibited by subrule (2) of this rule.~~
- ~~–(4) A policy shall be developed and implemented regarding the discipline of children. It shall be:~~
 - ~~–(a) In written form.~~
 - ~~–(b) Age appropriate.~~
 - ~~–(c) Provided to staff and parents.~~

R 400.5108 Equipment. Rescinded.

- ~~–Rule 108. (1) The center shall provide an adequate and varied supply of play equipment, materials, and furniture, which meet the following criteria:~~
 - ~~–(a) Appropriate to the developmental needs and interests of children.~~
 - ~~–(b) Safe, clean, and in good repair.~~
 - ~~–(c) Child-sized or appropriately adapted for a child's use.~~
 - ~~–(d) Easily accessible to the children.~~
- ~~–(2) The center shall have sufficient materials and equipment to provide a minimum of 3 playspaces per child in the licensed capacity.~~
- ~~–(3) A minimum of 2 playspaces shall be available and accessible per child in attendance on any given day during child-initiated activity time.~~
- ~~–(4) Children shall have access to equipment and materials in the following areas on a daily basis:~~

- ~~–(a) Large and small muscle activity.~~
- ~~–(b) Sensory exploration.~~
- ~~–(c) Social interaction and dramatic play.~~
- ~~–(d) Discovery and exploration.~~
- ~~–(e) Early math and science experiences.~~
- ~~–(f) Creative experiences through art, music, and literature.~~
- ~~–(5) The center shall provide a complete equipment inventory to the department before initial licensure and update it at each renewal.~~

R 400.5109–Sleeping equipment. Rescinded.

- ~~–Rule 109. (1) The center shall provide a cot or a mat constructed of a fabric or plastic which is easily cleanable in either of the following circumstances:~~
- ~~–(a) For any child who is less than school age enrolled for 5 or more continuous hours.~~
- ~~–(b) Upon a parent's request for any child in attendance.~~
- ~~–(2) Each cot and mat shall be cleaned and sanitized between use by different children and at least once a week regardless of use by different children.~~
- ~~–(3) Each child shall be provided with a sheet or blanket of appropriate size that shall be the following:~~
- ~~–(a) For the exclusive use of 1 child between launderings.~~
- ~~–(b) Washed at least weekly or more often if soiled.~~
- ~~–(c) Stored so that it does not make contact with other bedding.~~
- ~~–(4) All occupied cots and mats shall be spaced at least 18 inches apart and in a manner that provides a free and direct means of egress.~~

R 400.5109a–Nighttime care. Rescinded.

- ~~–Rule 109a. If a child is in care between the hours of 11 p.m. and 6 a.m., then the following shall be required:~~
- ~~–(a) A separate area away from sleeping children where the child can engage in quiet activities.~~
- ~~–(b) A bed and mattress, with a waterproof covering, of a size appropriate to the age of each child.~~

R 400.5110–Food services and nutrition. Rescinded.

- ~~–Rule 110. (1) Snacks and meals shall be provided by the center, except when 1 of the following circumstances occurs:~~
- ~~–(a) A majority of the children are in attendance less than 4 hours.~~
- ~~–(b) Food is provided by a parent.~~
- ~~–(2) Food provided by the center shall be of sufficient quantity and nutritional quality to provide for the dietary needs of each child according to the minimum meal requirements of the child and adult care food program as administered by the Michigan department of education based on 7 C.F.R. Part 226, 1-1-05 edition, of the U. S. department of agriculture, food and nutrition services, child and adult care food program and is hereby adopted by reference. A copy can be obtained at no charge on the internet at www.fns.usda.gov/end/Care/CACFP/cacfphone.htm, or from the department of human services, P.O. Box 30650, Lansing, Michigan, 48909.~~
- ~~–(3) A child shall be served meals and snacks in accordance with the following schedule:~~
- ~~–(a) Four hours to 6 hours of operation: a minimum of 1 meal and 1 snack.~~

- ~~–(b) Seven hours to 10 hours of operation: a minimum of 1 meal and 2 snacks, or 2 meals and 1 snack.~~
- ~~–(c) Eleven hours or more of operation: a minimum of 2 meals and 2 snacks.~~
- ~~–(4) The center shall assure that a child is not deprived of a snack or meal if the child is in attendance at the time when the snack or meal is served.~~
- ~~–(5) Menus shall be planned in advance, shall be dated, and shall be posted in a place visible to parents. Food substitutions shall be noted on the menus.~~
- ~~–(6) The center shall assure that a child with special dietary needs is provided with snacks and meals in accordance with the child's needs and with the instructions of the child's parent or a licensed physician.~~
- ~~–(7) Adequate staff shall be provided so that food service activities do not detract from direct care and supervision of children.~~

R 400.5111—Children's records. **Rescinded.**

- ~~–Rule 111. (1) At the time of the child's initial attendance, a child information card, using a form provided by the department or a comparable substitute, filled out by the parent, including written permission, signed by the parent, to seek emergency medical care shall be obtained and kept on file and accessible in the center.~~
- ~~–(2) Child information cards shall be updated annually or when changes occur.~~
- ~~–(3) At the time of initial attendance, 1 of the following shall be obtained and kept on file and accessible in the center:~~
 - ~~–(a) A certificate of immunization showing a minimum of 1 dose of each immunizing agent specified by the department of community health.~~
 - ~~–(b) A copy of a waiver addressed to the department of community health and signed by the parent stating immunizations are not being administered due to religious, medical, or other reasons.~~
- ~~–(4) When a child has been in attendance for 4 months, an updated certificate showing completion of all additional immunization requirements as specified by the department of community health shall be on file unless there is a signed statement by a licensed physician or his or her designee stating immunizations are in progress.~~
- ~~–(5) Within 30 days of initial attendance, 1 of the following shall be obtained and kept on file and accessible in the center:~~
 - ~~–(a) For infants and young toddlers: A physical evaluation performed within the preceding 3 months signed by a licensed physician or his or her designee. Restrictions shall be noted.~~
 - ~~–(b) For older toddlers and pre-school age: A physical evaluation performed within the preceding year signed by a licensed physician or his or her designee. Any restrictions shall be noted.~~
- ~~–(6) Physical evaluations shall be updated as follows:~~
 - ~~–(a) Yearly for infants and young toddlers.~~
 - ~~–(b) Every 2 years for older toddlers and pre-school age.~~
- ~~–(7) The center shall assure that if a parent objects to a physical examination or medical treatment on religious grounds, then the parent provides a signed statement annually that the child is in good health and that the parent assumes responsibility for the child's state of health while at the center.~~

- ~~–(8) The center shall maintain an accurate record of daily attendance at the center that includes each child's first and last name, and each child's arrival and departure time.~~
- ~~–(9) Parent's written permission for the child's participation in field trips shall be obtained at the time of enrollment or before each field trip and kept on file in the center.~~
- ~~–(10) Parents shall be notified before each field trip.~~

R 400.5111a–Accident, injury, illness, death reporting. Rescinded.

- ~~–Rule 111a. (1) The center shall make a verbal report to the department within 24 hours of a serious injury, or accident, or a serious illness or medical condition occurring while a child is in care that results in emergency medical treatment at a health facility or hospitalization, or death.~~
- ~~–(2) The center shall submit a written report in a format provided by the department within 72 hours of a serious injury or accident, or a serious or medical condition which results in emergency medical treatment at a health facility or hospitalization, or death. A copy of the report shall be kept on file at the center.~~

R 400.5111b–Health care policies and resources. Rescinded.

- ~~–Rule 111b. A written health care plan shall be implemented that includes the following:~~
- ~~–(a) Health practices and policies including procedures for the following:~~
 - ~~–(i) Children and staff hand washing.~~
 - ~~–(ii) Handling children's bodily fluids.~~
 - ~~–(iii) Cleaning and sanitizing of all equipment, toys and other surfaces.~~
 - ~~–(iv) Controlling infection, including universal precautions.~~
- ~~–(b) Health-related resources.~~

R 400.5113a–Emergency procedures. Rescinded.

- ~~–Rule 113a. (1) The center shall have written procedures for the care of children and staff for each of the following emergencies:~~
 - ~~–(a) Fire.~~
 - ~~–(b) Tornado.~~
 - ~~–(c) Serious accident, illness, or injury.~~
 - ~~–(d) Crisis management, including, but not limited to intruders and bomb threats.~~
- ~~–(2) The center shall inform each member of the staff of his or her duties and responsibilities if an emergency occurs. Emergency procedures shall be reviewed with staff at least twice a year.~~
- ~~–(3) The center shall establish and implement a fire drill program for staff and children consisting of at least 1 fire drill quarterly to assure prompt evacuation of the building in case of emergency.~~
- ~~–(4) The center shall establish and implement a tornado drill program consisting of at least 2 tornado drills during the months of April to October to assure prompt emergency procedures in the case of a tornado.~~
- ~~–(5) The center shall post emergency procedures and evacuation plans in a place visible to staff and parents.~~
- ~~–(6) A written log indicating the date and time of fire and tornado drills shall be on file at the center.~~

~~-(7) If cribs are used in emergency evacuations, then all doors within the means of egress shall be wide enough to readily accommodate the crib evacuation.~~

R 400.5113b—Medication; administrative procedures. Rescinded.

~~—Rule 113b. (1) Medication, prescription or nonprescription, shall be given to a child by an adult caregiver only.~~

~~-(2) Medication, prescription or nonprescription, shall be given or applied only with prior written permission from a parent.~~

~~-(3) All medication shall be its original container, stored according to instructions, and clearly labeled for a named child.~~

~~-(4) Prescription medication shall have the pharmacy label indicating the physician's name, child's name, instructions, and name and strength of the medication and shall be given according to those instructions.~~

~~-(5) All medication shall be kept out of the reach of children and shall be returned to the child's parent or destroyed when the parent determines it is no longer needed or it has expired.~~

~~-(6) A caregiver shall give or apply any prescription or nonprescription medication according to the directions on the original container unless authorized by a written order of the child's physician.~~

~~-(7) Topical nonprescription medication, including, but not limited to sunscreen and insect repellent, requires written parental authorization annually.~~

~~-(8) The center shall maintain a record as to the time and the amount of medication given or applied, with the exception of subrule (7) of this rule, on a form provided by the department or a comparable substitute approved by the department. The signature of the caregiver administering the medication shall be included.~~

R 400.5113c—Child illness. Rescinded.

~~—Rule 113c. (1) Parents shall be notified when the center observes changes in the child's health, a child experiences accidents or injuries, or when a child is too ill to remain in the group.~~

~~-(2) The center shall assure that a child too ill to remain in the group is placed in a separate area and is cared for and supervised until the parent arrives.~~

~~-(3) Items and facilities, including sleep equipment, bedding, utensils, toys, toilets, and lavatories, used by the ill child shall not be used by any other person until thoroughly cleaned and sanitized.~~

~~-(4) If the center becomes aware that a child in care has contracted a communicable disease, then the center shall notify parents of the following:~~

~~-(a) The name of the communicable disease.~~

~~-(b) The child may have been exposed.~~

~~-(c) The symptoms of the disease.~~

R 400.5114—Information provided to parents. Rescinded.

~~—Rule 114. (1) A licensee shall develop a written information packet to be provided to each parent enrolling a child that includes, but is not limited to the following:~~

~~-(a) Criteria for admission and withdrawal.~~

- ~~–(b) Schedule of operation, denoting hours, days, and holidays during which the center is open and services are provided.~~
- ~~–(c) Fee policy.~~
- ~~–(d) Discipline of children.~~
- ~~–(e) Nutrition and food service program.~~
- ~~–(f) Program philosophy and typical daily schedule.~~
- ~~–(g) Health care plan.~~

R 400.5115—Telephone service. Rescinded.

- ~~–Rule 115. (1) A land line telephone, excluding pay phones, cell phones, and cordless phones, shall be available, operable, and accessible in the building during the hours that the center is in operation. An operable land line telephone does not require electricity in the center to operate.~~
- ~~–(2) During the hours the center is in operation, the center shall provide a telephone number known to the public and available to parents to provide immediate access to the center.~~
- ~~–(3) Emergency telephone numbers, including 911, fire, police, poison control center, and emergency medical services, shall be conspicuously posted immediately adjacent to the telephone.~~

R 400.5116—Indoor space. Rescinded.

- ~~–Rule 116. (1) Indoor activity space shall be used by and accessible to each child.~~
- ~~–(2) The required square footage of space per child shall be at least the following:~~
 - ~~–(a) Fifty square feet for infants and young toddlers.~~
 - ~~–(b) Thirty five square feet for older toddlers to school age.~~
- ~~–(3) The following indoor space is excluded from the required square footage:~~
 - ~~–(a) Hallways.~~
 - ~~–(b) Bathrooms.~~
 - ~~–(c) Reception and office areas.~~
 - ~~–(d) Kitchens.~~
 - ~~–(e) Storage areas and cloakrooms.~~
 - ~~–(f) Areas used exclusively for resting, sleeping, or eating, except for infants and young toddlers.~~
- ~~–(4) The center shall provide a floor plan of all child use areas to the department. Only space that has received prior approval for child use by the department may be used for child care. Structural changes and unapproved areas shall be reviewed and approved by the department before use.~~

R 400.5117—Outdoor play area. Rescinded.

- ~~–Rule 117. (1) The outdoor play area shall be considered an outdoor classroom and an extension of the learning environment.~~
- ~~–(2) Children shall only use age appropriate equipment.~~
- ~~–(3) A center operating with children in attendance for 5 or more continuous hours a day shall have an outdoor play area that has at least 1,200 square feet. More than 1,200 square feet of outdoor play area may be required when the minimum amount is not adequate for the safe and accessible use by the number of children to be cared for by the center.~~
- ~~–(4) If outdoor space is not available adjacent to the center, then a park or other outdoor facility may be used. The following shall apply:~~

- ~~–(a) The area shall be easily accessible by a safe walking route.~~
- ~~–(b) The play area shall be inspected before each use to ensure that no hazards are present.~~
- ~~–(c) The location of the alternative outdoor play area shall be specified in writing to the department.~~
- ~~–(5) An outdoor play area located on the center's premises and all outdoor play equipment shall be maintained in a safe condition and inspected daily before use to ensure that no hazards are present.~~
- ~~–(6) The outdoor play area shall be in a safe location. It shall be protected from hazards, when necessary, by a fence or natural barrier that is at least 48 inches in height.~~
- ~~–(7) The equipment in the outdoor play area shall comply with the guidelines of the 1997 edition of the Handbook for Public Playground Safety, PUB No. 325, and is adopted by reference. Copies may be obtained, at no cost, from the Consumer Product Safety Commission (CPSC), Washington, D.C. 20207 (www.cpsc.gov) or from the department of human services, P.O. Box 30650, Lansing, Michigan 48909. Documentation of compliance shall be provided to the department upon request, and kept on file in the center. Centers licensed before the promulgation of these rules shall have 2 years from the effective date of these rules to meet the requirements of this rule.~~
- ~~–(8) The surface materials and use zones in the outdoor play area shall comply with the guidelines of the Handbook for Public Playground Safety, PUB No. 325, referenced in subrule (7) of this rule. In addition, the following shall apply:~~
 - ~~–(a) Protective surfaces such as wood mulch, double shredded bark mulch, uniform wood chips, fine or coarse sand, pea gravel, rubber or rubber over foam mats or tiles, poured in place urethane and rubber compositions shall be provided in areas where climbing, sliding, swinging, or other equipment from which a child might fall is located.~~
 - ~~–(b) Loose fill surfacing material shall not be installed over concrete.~~
 - ~~–(c) If children's wheeled vehicles and pull toys are used, then a suitable surface shall be provided for their use.~~
 - ~~–(9) The compressed depth of the surface material that is required shall be based on the critical fall height of the equipment. All of the following applies to surfacing material:~~
 - ~~–(a) Six inches of approved surfacing material is required for equipment with a critical fall height of up to 7 feet.~~
 - ~~–(b) Nine inches of approved surfacing material is required for equipment with a critical fall height of 7 feet to 10 feet.~~
 - ~~–(c) When sand is used as a surfacing material, 12 inches of sand is required for equipment with a critical fall height of 5 to 10 feet.~~
- ~~–(10) The depth of the loose fill surface material shall be restored to its required depth when it has moved or become packed.~~
- ~~–(11) Trampolines shall not be used by children in care.~~
- ~~–(12) There shall be a shaded area in the summer to protect children from excessive sun exposure.~~
- ~~–(13) Centers licensed before the promulgation of these rules shall have 1 year from the effective date of these rules to comply with subrules (8) and (9) of this rule.~~
- ~~–(14) School-age child care centers operating in school buildings approved by the Michigan department of education shall be exempt from subrules (7), (8), and (9) of this rule, provided the licensee informs parents, in writing at the time of enrollment, if the center plans to use a public school's outdoor play area and equipment that does not comply with this rule.~~

R 400.5118—Rule variances.—**Rescinded.**

~~Rule 118. (1) Upon written request of an applicant or licensee, the department may grant a variance from an administrative rule if the alternative proposed provides clear and convincing evidence that the health, welfare, and safety of children is protected.~~

~~(2) The decision of the department, including the conditions under which the variance was granted, shall be kept on file with the applicant or licensee.~~

~~(3) The granted variance may remain in effect for as long as the licensee continues to comply with the conditions of the variance or may be time limited.~~

~~PART 2. INFANTS/YOUNG TODDLER/OLDER TODDLER~~

~~R 400.5201a–Ratio of caregivers to infants/young toddlers/older toddlers. **Rescinded.**~~

~~Rule 201a. (1) At least 2 staff members, 1 of whom is a caregiver, shall be present at all times when at least 3 children between the ages of birth and 3 years of age are present.~~

~~(2) The ratio of caregivers to children present at all times shall be based on the following provisions:~~

~~(a) For infants and young toddlers, 0–29 months, there shall be 1 caregiver for 4 children or each fraction of 4, including children who are related to the staff and the licensee.~~

~~(b) For older toddlers, 30–35 months, there shall be 1 caregiver for 8 children or each fraction of 8, including children who are related to the staff and the licensee.~~

~~(c) Children who have reached 33 months of age may be enrolled in a 3-year old classroom with written parental permission. Ratios for 3-year olds shall apply.~~

~~(3) If there are children of mixed ages in the same room or in a well-defined space, then the ratio shall be determined by the age of the youngest child.~~

~~R 400.5201b–Group size for infants; young toddlers; older toddlers. **Rescinded.**~~

~~Rule 201b. (1) The center shall assure that the maximum group size for infants and young toddlers is 12.~~

~~(2) The center shall assure that the maximum group size for older toddlers is 16.~~

~~(3) Centers shall have 1 year from the effective date of these rules to comply with this rule.~~

~~R 400.5202a–Primary care. **Rescinded.**~~

~~Rule 202. (1) For the purposes of this rule, primary care means the following:~~

~~(a) Continuity of a relationship so that a child has as few primary caregivers, including substitute caregivers, as possible during any given day, within any given week, and over an extended period of time.~~

~~(b) Continuity of care to allow children and their primary caregiver to develop nurturing relationships over time.~~

~~(c) Appropriate social-emotional interaction, including, but not limited to smiling, holding, talking to, rocking, cuddling, eye contact, interacting with the child during routines and play activities, and providing guidance that helps the child develop social skills and emotional well-being.~~

~~(2) The center shall implement a primary care system so that each infant, young toddler, and older toddler has a primary caregiver.~~

- ~~–(3) Each child shall have not more than 4 primary caregivers in a week. For centers operating less than 24 hours a day, an exception may occur during the first hour after the center opens and the hour before closing.~~
- ~~–(4) Information regarding a child's food, health, and temperament shall be shared daily between caregivers when more than 1 primary caregiver is assigned to any infant, young toddler, or older toddler.~~
- ~~–(5) Primary caregiving assignments shall be documented and provided to parents.~~
- ~~–(6) An exception to R 400.5202a may be made when the center is transporting children and is in compliance with R 400.5611(1) and (2).~~

~~R 400.5204 Bedding and sleeping equipment for infants/toddlers; seating for staff. **Rescinded.**~~

- ~~–Rule 204. (1) All bedding and equipment shall be appropriate for the child and be clean, comfortable, safe, and in good repair. Bedding shall also be in compliance with 2000 PA 219, MCL 722.1051, and known as the children's product safety act.~~
- ~~–(2) A safe crib shall have the following:~~
 - ~~–(a) A firm, tight fitting mattress.~~
 - ~~–(b) No loose, missing, or broken hardware or slats.~~
 - ~~–(c) Not more than 2 3/8 inches between the slats.~~
 - ~~–(d) No corner posts over 1/16 inches high.~~
 - ~~–(e) No cutout designs in the headboard or footboard.~~
- ~~–(3) All bedding and sleep equipment shall be cleaned and sanitized before being used by another person.~~
- ~~–(4) All bedding shall be washed when soiled or weekly at a minimum.~~
- ~~–(5) An infant shall rest or sleep alone in an approved crib or porta crib. The following provisions shall apply:~~
 - ~~–(a) A tightly fitted bottom sheet shall cover a firm mattress with no additional padding placed between the sheet and mattress.~~
 - ~~–(b) The infant's head shall remain uncovered during sleep.~~
 - ~~–(c) Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, and other objects that could smother a child shall not be placed with or under a resting or sleeping infant.~~
 - ~~–(d) Blankets shall not be draped over cribs or porta cribs.~~
- ~~–(6) Toddlers shall rest or sleep alone in approved cribs, porta cribs, or on approved mats or cots.~~
- ~~–(7) Car seats, infant seats, swings, bassinets and playpens are not approved sleeping equipment for children.~~
- ~~–(8) Infants and toddlers who fall asleep in a space that is not approved for sleeping shall be moved to approved sleep equipment appropriate for their size and age.~~
- ~~–(9) Stacking cribs are prohibited after the effective date of these rules. Centers using stacking cribs before the effective date of these rules may continue to use existing stacking cribs only for children under 7 months of age or not yet standing.~~
- ~~–(10) When existing stacking cribs need to be replaced, the replacement cribs shall meet the requirements of subrules (1) and (2) of this rule.~~
- ~~–(11) All occupied cribs and porta cribs shall be spaced at least 2 feet apart and in such manner that there is a free and direct means of egress.~~
- ~~–(12) When sleeping equipment and bedding are stored, sleeping surfaces shall not come in contact with other sleeping surfaces.~~

~~–(13) A rocking chair or other comfortable, adult-sized seating shall be provided for 50% of the caregiving staff on duty who are providing infant and toddler care.~~

R 400.5204a–Infant sleeping and supervision. Rescinded.

~~–Rule 204a. (1) Infants shall be placed on their backs for resting and sleeping.~~

~~–(2) Infants unable to roll from their stomachs to their backs, and from their backs to their stomachs, when found facedown, shall be placed on their backs.~~

~~–(3) When infants can easily turn over from their backs to their stomachs, they shall be initially placed on their backs, but allowed to adopt whatever position they prefer for sleep.~~

~~–(4) For an infant who cannot rest or sleep on her or his back due to disability or illness, the caregiver shall have written instructions, signed by a physician, detailing an alternative safe sleep position and/or~~

~~other special sleeping arrangements for the infant. The caregiver shall rest/sleep children according to a physician's written instructions.~~

~~–(5) The caregiver shall maintain supervision and frequently monitor infants' breathing, sleep position, and bedding for possible signs of distress.~~

~~–(6) Resting or sleeping areas shall have adequate soft lighting to allow the caregiver to assess children.~~

~~–(7) Video surveillance equipment and baby monitors shall not be used in place of subrule (5) of this rule.~~

R 400.5205–Formula; milk; foods generally. Rescinded.

~~–Rule 205. (1) When infants and toddlers are fed at the center, the center shall assure the following:~~

~~–(a) Infants and toddlers are provided with beverages and food appropriate for their individual nutritional requirements, developmental stages, and special dietary needs, including cultural preferences.~~

~~–(b) Bottles and individual food containers shall be labeled for a specific child and fed only to that child.~~

~~–(c) If bottles or food are warmed, then it shall be done in a safe, appropriate manner.~~

~~–(i) Warming bottles in a microwave oven is prohibited.~~

~~–(ii) Warmed bottles and food shall be shaken or stirred to distribute the heat, and the temperature tested before feeding.~~

~~–(d) Formula shall be iron-fortified for a child who is less than 6 months of age, unless otherwise recommended by the parent or the child's licensed health care provider.~~

~~–(e) Iron-fortified cereal, if not already provided by 6 months of age, shall be provided when the iron-fortified formula is discontinued, unless otherwise recommended by the parent or the child's licensed health care provider.~~

~~–(f) Solid foods are introduced to the child according to the parent's or licensed health care provider's instructions.~~

~~–(g) Caregivers shall feed infants and young toddlers on demand.~~

~~–(h) A sink is used exclusively for formula, food preparation, and clean up.~~

~~–(2) Infants shall only be served formula or breast milk unless written authorization is provided by the child's licensed health care provider.~~

- ~~–(3) Milk, other than cow's milk, shall be served according to nutritional guidelines for the age of the child and/or in compliance with dietary preferences or restrictions when written authorization is provided by the child's parent or licensed health care provider.~~
- ~~–(4) Young toddlers shall be served whole homogenized vitamin D fortified cow's milk, unless written authorization is provided by the child's licensed health care provider.~~
- ~~–(5) The center shall comply with the following requirements regarding bottle-feeding:~~
 - ~~–(a) Bottle propping is prohibited.~~
 - ~~–(b) Caregivers shall hold infants except when infants resist being held and are able to hold their bottle.~~
 - ~~–(c) Caregivers shall not permit infants or toddlers to have bottles in sleeping equipment.~~
 - ~~–(d) The contents of a bottle that appears to be unsanitary, or has been used for feeding for a period that exceeds 1 hour from the beginning of the feeding, or has been unrefrigerated for an hour or more shall be discarded.~~
 - ~~–(e) Formula and milk left in a bottle at the end of a feeding shall be discarded.~~
 - ~~–(f) Bottle supplies and contents shall comply with the following:~~
 - ~~–(i) Disposable nipples and bottle liners shall be for single use only, by an individual child, and discarded after use.~~
 - ~~–(ii) Reusable nipples and bottles shall be cleaned, rinsed, and sterilized before reuse.~~
 - ~~–(iii) Bottle liners shall be for single use only, by an individual child, and discarded with any remaining formula or milk after use.~~
 - ~~–(iv) Bottle liners in unused bottles containing formula shall be discarded, along with the formula, after 48 hours. Bottle liners in unused bottles containing milk shall be discarded, along with the milk, after 24 hours.~~
 - ~~–(v) All liners, nipples, formula, milk and other materials used in bottle preparation shall be prepared, handled, and stored in a sanitary and sterile manner.~~
 - ~~–(g) Cereal shall not be added to a bottle containing formula, milk, juice, or water without written parental permission.~~
 - ~~–(h) Medication shall not be added to a child's bottle, beverage, or food unless indicated on the prescription label.~~
 - ~~–(6) When serving solid foods, the center shall assure that caregivers do the following:~~
 - ~~–(a) Serve commercially packaged baby food from a dish, not directly from a factory sealed container.~~
 - ~~–(b) Discard uneaten food that remains on a dish from which a child has been fed.~~
 - ~~–(c) Not serve or allow infants and toddlers to eat foods that may easily cause choking including, but not limited to, popcorn, uncut round foods such as whole grapes, hot dogs, seeds, nuts and hard candy.~~
 - ~~–(d) Foster toddler's independence and facilitate language and social interactions by doing the following:~~
 - ~~–(i) Encouraging self-feeding.~~
 - ~~–(ii) Serving appropriate portion sizes.~~
 - ~~–(iii) Sitting and eating with toddlers during meal times.~~

R 400.5205a–Formula, milk, foods provided by parents. Rescinded.

~~–R 205a. (1) If a parent has agreed to provide formula, milk, or food, then the center shall obtain a written agreement from the parent and shall be responsible for providing adequate formula, milk, or food if the parent does not.~~

- ~~-(2) The center shall comply with R 400.5205 and the following additional requirements regarding breastfeeding and the handling and storage of breast milk:~~
- ~~-(a) The center shall support and accommodate breastfeeding.~~
- ~~-(b) The center shall have a designated place set aside to accommodate mothers and their children who are breastfeeding.~~
- ~~-(c) Expressed breast milk shall meet the following requirements:~~
- ~~-(i) Arrive at the center in clean, sanitary, ready to feed assembled bottles labeled with the child's full name and bearing the date of collection.~~
- ~~-(ii) Be immediately stored in the refrigerator or freezer upon arrival at the center and kept refrigerated until used or discarded.~~
- ~~-(iii) Be thawed under cold running water or in the refrigerator and shall be used within 24 hours.~~
- ~~-(iv) Be discarded at the end of a feeding.~~
- ~~-(3) If formula, milk or food is provided by the parents, then the center shall comply with R400.5205 and the following additional provisions:~~
- ~~-(a) Formula or milk shall be furnished daily to the center in clean, sanitary, ready to feed bottles.~~
- ~~-(b) Formula, milk, and food shall be covered and labeled as to the contents, date, date of opening, when applicable, and the name of the child for whom its use is intended.~~
- ~~-(c) Formula, milk and perishable foods shall be refrigerated until used.~~
- ~~-(d) At the end of the day, any formula or milk in an unopened ready to feed bottle, or perishable food, shall be returned to the parent or discarded.~~

R 400.5205b—Formula, milk provided by center. Rescinded.

- ~~—Rule 205b. (1) If formula or milk is provided by the center, then the center shall comply with R400.5205 and the following additional provisions:~~
- ~~-(a) Formula and milk shall be commercially prepared, ready to feed.~~
- ~~-(b) If formula or milk is poured directly into a bottle, then the bottle shall be clean and labeled as to the contents and date of preparation.~~
- ~~-(c) Prepared bottles and containers of milk and formula shall be refrigerated.~~
- ~~-(d) All formula, once opened, shall be labeled with the date and time of opening and used within 48 hours or discarded.~~
- ~~-(e) All milk shall be used in compliance with R 400.5902c (11) and (12).~~

R 400.5206—Records. Rescinded.

- ~~—Rule 206. For infants, parents shall receive a written daily record that includes at least the following information:~~
- ~~-(a) Food intake; time, type of food, and amount eaten.~~
- ~~-(b) Sleeping patterns; when and how long child slept.~~
- ~~-(c) Elimination patterns, including bowel movements, consistency and frequency.~~
- ~~-(d) Developmental milestones.~~
- ~~-(e) Changes in the child's usual behaviors.~~

R 400.5209—Diapering; toileting. Rescinded.

- ~~—Rule 209. (1) Diapering shall occur in a designated diapering area that shall be all of the following:~~

- ~~-(a) Physically separated from food preparation and food service.~~
- ~~-(b) Within close proximity to a hand washing sink that is used exclusively for this purpose.~~
- ~~-(c) Have non-absorbent smooth, easily sanitized surfaces in good repair and maintained in a safe and sanitary manner.~~
- ~~-(d) Of sturdy construction with railings or barriers to prevent falls.~~
- ~~-(e) At an adult work surface height to minimize children's access.~~
- ~~-(f) Have diapering supplies within easy reach.~~
- ~~-(g) Have a plastic-lined, tightly covered container exclusively for disposable diapers and diapering supplies that shall be emptied and sanitized at the end of each day.~~
- ~~-(h) Cleaned and sanitized after each use.~~
- ~~-(2) Only single use disposable wipes or other single use cleaning cloths shall be used to clean a child during the diapering or toileting process.~~
- ~~-(3) The caregiver shall frequently check diapers/training pants and change diapers or training pants that are wet or soiled.~~
- ~~-(4) Toddlers in wet diapers or training pants may be changed in a bathroom.~~
- ~~-(5) Diapering shall not be done on any sleep surface.~~
- ~~-(6) The caregiver shall thoroughly wash his or her hands after each diapering and after cleaning up bodily fluids.~~
- ~~-(7) Guidelines for diapering and hand washing shall be posted in diapering areas.~~
- ~~-(8) Disposable gloves, if used for diapering, shall only be used once for a specific child and be removed and disposed of in a safe and sanitary manner immediately after each diaper change.~~
- ~~-(9) Diapers shall be disposable or from a commercial diaper service. If a child's health condition necessitates that disposable diapers or diapers from a commercial service cannot be used, then an alternative arrangement may be made according to the child's parent or licensed health care provider.~~
- ~~-(10) The following shall apply when cloth diapers or training pants are used:~~
 - ~~-(a) No rinsing of the contents shall occur at the center.~~
 - ~~-(b) There shall be a waterproof outer covering that shall not be reused until thoroughly washed and sanitized.~~
- ~~-(11) Toilet learning/training shall be planned cooperatively between the child's primary caregiver and the parent so that the toilet routine established is consistent between the center and the child's home.~~
- ~~-(12) Equipment used for toilet learning/training shall be provided.~~

~~Adult-sized toilets with safe and easily cleaned modified toilet seats and step aids or child-sized toilets shall be used.~~
- ~~-(13) Non-flushing toilets (potty chairs) may be used under the following conditions:~~
 - ~~-(a) Easily cleaned and sanitized.~~
 - ~~-(b) Used only in a bathroom area.~~
 - ~~-(c) Used over a surface that is impervious to moisture.~~
 - ~~-(d) Cleaned and sanitized after each use.~~

~~PART 3. SCHOOL AGE~~

~~R 400.5301—Definitions. Rescinded.~~

~~—Rule 301. (a) "Child-related fields" means early childhood education, elementary education, secondary education, physical education and recreation, child development, child~~

~~guidance/counseling, child psychology, family studies and social work, human services, and youth development.~~

~~(b) "Child care administration" means child care administration, education administration, or business administration.~~

~~(c) A "Child development associate credential" (CDA) means a credential awarded by the council for professional recognition or similar credential approved by the department.~~

~~(d) A "Montessori credential" means a credential issued by the association Montessori internationale (AMI), American Montessori society (AMS), or any Montessori teaching training institution recognized by the Montessori accreditation council for teacher education that meets or exceeds 270 hours of academic training.~~

~~(e) "A Michigan school age care credential" means a credential issued by the Michigan community coordinated child care association or similar credential approved by the department.~~

~~(f) Degrees and semester hours shall be from an accredited college or university.~~

R 400.5302-School age program director qualifications. Rescinded.

~~Rule 302. (1) A program director shall be present during the following:~~

~~(a) Full time for programs operating less than 6 continuous hours.~~

~~(b) At least 50% of the time children are in care, but not less than a total of 6 hours for programs operating 6 or more continuous hours.~~

~~(2) A program director shall comply with all of the following:~~

~~(a) Be at least 21 years of age.~~

~~(b) Have earned a high school diploma or GED.~~

~~(c) Have current certification in child, and adult cardiopulmonary resuscitation (CPR) and first aid.~~

~~(d) Complete 12 clock hours of annual training on topics referenced in R 400.5102(3)(b), not including CPR, first aid, and blood borne pathogen training.~~

~~(e) Develop, implement, and evaluate center policies and program.~~

~~(f) Administer day to day operations.~~

~~(g) Oversee staff.~~

~~(3) The center shall ensure that the qualifications of the program director meet 1 of the following:~~

-	Education	Semester Hours in a child-related field	Hours of Experience
(a)	Bachelor's degree or higher in a child-related field	-	-
(b)	Associate's degree in a child-related field with →	-	480 hours
(c)	Montessori credential with →	12 semester hours with →	480 hours
(d)	Michigan school age credential with →	12 semester hours with →	480 hours
(e)	Child development associate credential with →	12 semester hours with →	480 hours
(f)	60 semester hours with →	12 semester hours with →	720 hours
(g)	High school diploma/GED with →	6 semester hours with →	2880 hours

- ~~-(4) A program director shall have at least 2 semester hours in child care administration from an accredited college or university, or a minimum of 3.0 CEUs in child care administration. The following shall apply:~~
- ~~-(a) A program director currently employed as a program director before the effective date of these rules shall have 2 calendar years to complete the child care administration requirement.~~
- ~~-(b) A program director meeting the qualifications of subrules 3(a) or 3(b) of this rule or having 5 years experience as a program director before the effective date of these rules shall be exempt from the requirements of this rule.~~
- ~~-(5) The center shall keep on file verification of the education, credential, and experience qualifications, as applicable.~~

R 400.5303—Program. Rescinded.

- ~~—Rule 303. (1) Activities shall be planned and supported through resources that reflect the interests and abilities of the children enrolled, especially supplementing the areas of development not regularly provided for during the school day.~~
- ~~-(2) A school age program shall provide a program that has the following opportunities for each child:~~
- ~~-(a) To plan, carry out, and evaluate the program and his or her individual activities.~~
- ~~-(b) To experience a diversity of activities within the program and community.~~
- ~~-(c) To participate in relaxation and recreational activities.~~

R 400.5303a—Ratio of caregivers to school age children. Rescinded.

- ~~—Rule 303a. (1) The ratio of caregivers to school age children present at all times shall be based upon all of the following provisions:~~
- ~~-(a) For children school age up to 12 years of age, there shall be 1 caregiver to 18 children or a fraction thereof, including children who are related to the staff and the licensee.~~
- ~~-(b) For children from 13 to 17 years of age, there shall be 1 caregiver for 25 children or a fraction thereof, including children who are related to the staff and the licensee.~~

R 400.5305—Health records. Rescinded.

- ~~—Rule 305. (1) Upon enrollment and annually thereafter, the center shall obtain and keep on file at the center a signed statement from the school age child's parent all of the following:~~
- ~~-(a) The child is in good health with activity restrictions noted.~~
- ~~-(b) The child's immunizations are up to date.~~
- ~~-(c) The immunization record or appropriate waiver is on file with the child's school.~~

R 400.5306—Multisite school age program director. Rescinded.

- ~~—Rule 306. (1) A program director with a bachelor's degree or higher in a child related field may oversee up to 3 sites with the following conditions:~~
- ~~-(a) Each program routinely operates 6 hours or fewer per day.~~
- ~~-(b) The program director is available during all hours of program operation.~~
- ~~-(c) The program director supervises the planning and evaluation of the program and the staff.~~

- ~~–(2) The program director shall be at each site a minimum of 1 session per week and maintain written documentation of site visits, including dates and times.~~
- ~~–(3) The multisite program director shall meet the training requirements in R 400.5302(2)(d).~~

R 400.5307–Site supervisor qualifications; responsibilities. Rescinded.

- ~~–Rule 307. (1) For multisite programs, with a program director responsible for more than 1 center, the licensee shall assure that a site supervisor is present during all hours of operation.~~
- ~~–(2) The site supervisor shall meet all of the following:~~
 - ~~–(a) Be at least 19 years of age.~~
 - ~~–(b) Have earned a high school diploma, GED, or equivalent.~~
 - ~~–(c) Have 480 hours of experience working as a caregiver in a program serving school-age children that meets the requirements of 1973 PA 116, MCL 722.111.~~
 - ~~–(d) Have completed 16 clock hours of documented school-age training.~~
 - ~~–(e) Have current certification in child, and adult cardiopulmonary resuscitation (CPR) and first-aid training.~~
- ~~–(3) The site supervisor shall meet the training requirements in R 400.5302(2)(d).~~
- ~~–(4) The site supervisor shall be responsible for the daily operation and implementation of the site program, supervision of the site staff, and for overall care and supervision of children.~~
- ~~–(5) A site supervisor shall assist the program director in all of the following:~~
 - ~~–(a) Developing, implementing, and evaluating program and center policies.~~
 - ~~–(b) Administering day to day operations.~~
 - ~~–(c) Monitoring and overseeing staff.~~

PART 5. SWIMMING

R 400.5501–Definitions. Rescinded.

- ~~–Rule 501. (1) As used in this part:~~
 - ~~–(a) "Lifeguard" means a person who meets the following criteria:~~
 - ~~–(i) Possesses an appropriate and current life guard training and certification by Red Cross, YWCA, YMCA, or equivalent in 1 of the following:~~
 - ~~–(A) Basic lifeguard for pool only.~~
 - ~~–(B) Full life guarding for pool and all other water activities.~~
 - ~~–(ii) Is dressed suitably to act in an emergency.~~
 - ~~–(iii) Is providing constant supervision.~~
 - ~~–(b) "Public swimming pool" means an artificial body of water used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related~~
 - ~~–equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms. Public swimming pools include those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, mobile home parks, subdivisions, and the like. A pool or portable pool located on the same premises with a 1, 2, 3, or 4 family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made lake, an exhibitor's swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 motel units is not a public swimming pool.~~

R 400.5502—Swimming caregiver to child ratio. Rescinded.

- ~~Rule 502. (1) The center shall obtain and keep on file written parental permission regarding their child's participation in swimming activities.~~
- ~~(2) A lifeguard shall be on duty at all swimming activities and shall not be included in the caregiver to child ratio.~~
- ~~(3) For children under 3 years of age, there shall be an in the water ratio of 1 caregiver to 1 child.~~
- ~~(4) For all nonswimmers 3 years of age and older, there shall be an in the water ratio of 1 caregiver to 4 children when the water level is at the child's chest height or lower. When the water level is above the child's chest height, there shall be an in the water ratio of 1 caregiver to 1 child.~~
- ~~(5) For swimmers 3 years to 4 years of age, there shall be an in the water ratio of caregivers to children as required by R 400.5105(3).~~
- ~~(6) For swimmers school age and older, there shall be an in the water ratio as required in R 400.5303a.~~

R 400.5502a—Swimming activity supervision. Rescinded.

- ~~Rule 502a (1) All caregiving staff counted in the caregiver to child ratio shall be both of the following:~~
- ~~(a) Actively engaged in providing direct care, supervision, and guidance.~~
- ~~(b) Physically able to assist children quickly.~~

R 400.5502b—Instructional swim. Rescinded.

- ~~Rule 502b. (1) Instructional swim shall be conducted under the supervision of a qualified water safety instructor (WSI), in an organization such as the YMCA or YWCA, and where instructional swim is part of the organized program.~~
- ~~(2) The ratio of caregivers to children under R 400.5105(3) and R 400.5303a shall be maintained. The instructor shall not be included in the ratio.~~

R 400.5502c—Swimming activity area. Rescinded.

- ~~Rule 502c. (1) All swimming areas shall be maintained in a clean and safe condition.~~
- ~~(2) When a swimming pool is utilized by children while under the care of a center, it shall be constructed and operated in compliance with 1978 PA 368, MCL 333.1101 et seq.~~
- ~~(3) A public or private pool used for swimming shall be inspected and issued a permit for operation by the environmental health authority.~~
- ~~(4) Before using a public or private beach, the center shall assure that the water has not been deemed unsafe by the environmental health authority.~~
- ~~(5) A working telephone shall be accessible on the premises.~~
- ~~(6) All of the following safety equipment shall be readily accessible:~~
 - ~~(a) First aid kit.~~
 - ~~(b) Rescue pole or throwing rope and ring buoy.~~
 - ~~(c) Signaling device.~~
- ~~(7) The use of private wading pools and hot tubs is prohibited.~~

~~PART 6. TRANSPORTATION~~

~~R 400.5601—Definitions.—Rescinded.~~

~~—Rule 601. As used in this part:~~

~~—(a) "Child passenger restraint device" means a device that is used to restrain a child weighing less than 65 pounds that meets the requirements of federal motor vehicle safety standard no. 213, child seating systems, 49 C.F.R. §571, revised 10-1-2002, and is hereby adopted by reference. Copies of the adopted matter may be obtained at no cost from the U.S. department of transportation website (www.nhtsa.dot.gov/cars/rules) or from the department of human services, P.O. box 30650, Lansing, Michigan 48909.~~

~~—(b) "Manufacturer's rated seating capacity" means the number of places or spaces provided by the manufacturer of a vehicle for the driver and passengers to sit while the vehicle is in motion.~~

~~—(c) "Motor vehicle," means a self propelled device in which persons are or may be transported upon a highway, which is built on an automobile or truck chassis, which is specifically designed by the manufacturer to transport passengers, or specially modified to transport handicapped passengers, and which meets the safety equipment requirements of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.714b.~~

~~—(d) "Safety belt" means an automobile lap belt or lap shoulder belt combination designed to restrain and protect a passenger or driver of a vehicle from injury.~~

~~—(e) "Transportation" means the conveyance of children by means of a motor vehicle to or from a child care center and to and from all other activities planned for children by or through the child care center.~~

~~—(f) "Volunteer motor vehicle" means a motor vehicle not owned by, leased by, or registered to the child care center, or principal or employee of the child care center.~~

~~R 400.5602—Transportation.—Rescinded.~~

~~—Rule 602. (1) If transportation other than public transportation or public school transportation is provided, contracted, or sponsored by the center, all rules in this part apply.~~

~~—(2) If public transportation or public school transportation is used, then R 400.5611, 400.5613, and R 400.5615 apply.~~

~~—(3) If a parent makes a private arrangement for the transportation of his or her child, not including arrangements made with the center, the rules in this part do not apply.~~

~~R 400.5603—All motor vehicles.—Rescinded.~~

~~—Rule 603. (1) All motor vehicles shall be in safe operating condition.~~

~~—(2) Motor vehicle seats used by children, staff, and volunteers shall not face sideways.~~

~~—(3) A truck shall not be used to transport children, except in the cab.~~

~~—(4) There shall be no loose or heavy objects in the passenger compartment of any motor vehicle.~~

~~—(5) Motor vehicles with a rated seating capacity of 10 passengers or fewer, including the driver, other than volunteer vehicles, shall be inspected annually by a licensed mechanic. A copy of the inspection shall be on file in the center.~~

~~—(6) The use of passenger vans with a rated seating capacity of 11 or more, including volunteer vehicles, shall be prohibited.~~

- ~~-(a) Existing centers that own passenger vans with a rated seating capacity of 11 or more and use them for transportation other than transportation to and from school shall have 4 years from the effective date of these to comply with this subrule.~~
- ~~-(b) Annual inspections of vans shall continue until they are no longer used.~~
- ~~-(7) A statement verifying that the motor vehicle is in compliance with the Michigan vehicle code safety equipment requirements shall be kept on file in the center.~~

R 400.5604—Multifunction school activity buses. Rescinded.

- ~~—Rule 604. (1) Multifunction school activity buses used for transporting children shall comply with all minimum safety specifications, except color, identification, and alternating flashing lights, as defined in 1990 PA 187, MCL 257.1810.~~
- ~~-(2) All multifunction school activity buses shall be inspected annually by a licensed mechanic or by the department of state police if used to transport children to and from school. A copy of the inspection shall be on file in the center.~~

R 400.5605—Safety equipment in motor vehicles with a manufacturer's rated seating capacity of 10 or fewer occupants. Rescinded.

- ~~—Rule 605. (1) Each motor vehicle with a manufacturer's rated seating capacity of 10 or fewer occupants shall carry the following safety equipment:~~
- ~~-(a) Three bidirectional emergency reflective triangles properly cased and securely stored in the motor vehicle.~~
- ~~-(b) A first aid kit shall be securely stored in an accessible location in the driver compartment. The first aid kit shall contain, at a minimum, all of the following:~~
- ~~-(i) Bandage compresses (sterile gauze pads).~~
- ~~-(ii) Adhesive compresses.~~
- ~~-(iii) A 40 inch triangular bandage.~~
- ~~-(iv) A roll of gauze.~~
- ~~-(v) An elastic bandage.~~
- ~~-(c) Antiseptics, burn ointments, and medication shall not be included in the first aid kit.~~
- ~~-(d) Volunteer motor vehicles are exempt from subdivision (a) of this subrule.~~

R 400.5606—Safety equipment in vehicles with a manufacturer's rated seating capacity of more than 10 occupants. Rescinded.

- ~~—Rule 606. (1) Each motor vehicle with a manufacturer's rated seating capacity of more than 10 occupants shall carry the following safety equipment:~~
- ~~-(a) Three bidirectional emergency reflective triangles properly cased and securely stored in the driver's compartment.~~
- ~~-(b) Not less than 3 15 minute fusees or an approved battery operated substitute properly cased and securely stored in the driver's compartment.~~

- ~~-(c) Fire extinguisher of dry chemical type, approved by underwriters' laboratories, inc., rated not less than 2A-10BC, mounted in an accessible place in the driver compartment. The fire extinguisher shall be kept properly filled and in satisfactory operating condition at all times.~~
- ~~-(d) A first aid kit shall be securely stored in an accessible location in the driver compartment. The first aid kit shall contain, at a minimum, all~~
 - ~~of the following:~~
 - ~~-(i) Bandage compresses (sterile gauze pads).~~
 - ~~-(ii) Adhesive compresses.~~
 - ~~-(iii) A 40-inch triangular bandage.~~
 - ~~-(iv) A roll of gauze.~~
 - ~~-(v) An elastic bandage.~~
- ~~-(e) Antiseptics, burn ointments, and medication shall not be included in the first aid kit.~~

R 400.5607—~~Manufacturer's rated seating capacity; restraint devices; safety belts.~~ **Rescinded.**

- ~~—Rule 607. (1) Each child transported shall remain seated and properly restrained by a passenger restraint device as defined by 1949 PA 300, MCL 257.710d(1), MCL 257.710e(3), (4), and the manufacturer's rated seating capacity while the motor vehicle is in motion.~~
- ~~—(2) Each restraint device shall be properly anchored to the vehicle seat and used according to the manufacturer's specifications. Allowing 2 or more children to share a seat belt or restraint device is prohibited.~~
- ~~—(3) The driver of a motor vehicle and all adult passengers shall be seated according to the manufacturer's rated seating capacity and properly restrained by safety belts when the motor vehicle is in motion.~~
- ~~—(4) All safety belts and restraint devices used while transporting children and adults shall be in good working condition.~~

R 400.5610—~~Motor vehicle operator.~~ **Rescinded.**

- ~~—Rule 610. (1) The driver of any motor vehicle transporting children shall comply with all of the following:~~
 - ~~-(a) Be at least 18 years of age.~~
 - ~~-(b) Possess a valid operator or chauffeur's license with the appropriate endorsement as required by 1949 PA 300, MCL 257.301.~~
 - ~~-(c) Have a personal driving record with not more than 6 active points as determined by the secretary of state.~~
 - ~~-(d) Have proof of valid automobile insurance and registration.~~
 - ~~-(e) Be familiar with the contents of the first aid kit.~~
 - ~~-(f) Be familiar with the operation of the fire extinguisher, if a fire extinguisher is required.~~
- ~~—(2) The following documents shall be on file in the center:~~
 - ~~-(a) A copy of each driver's driving record, except for drivers of volunteer motor vehicles, obtained from the secretary of state at least once a year.~~
 - ~~-(b) A self-certifying statement that all volunteer drivers comply with subrule (1) of this rule.~~
 - ~~-(c) A copy of a valid operator license.~~
- ~~—(3) Drivers shall be provided with a copy of the child information card or comparable facsimile for each child being transported in their motor vehicles.~~

~~R 400.5611—Caregiver to child ratio and supervision. **Rescinded.**~~

~~—Rule 611. (1) The ratio of caregivers to children at all times, who are in transit, shall be based on the following provisions:~~

~~—(a) For infants and young toddlers, there shall be 1 caregiver for 4 children or each fraction of 4, excluding the driver.~~

~~—(b) For older toddlers, there shall be 1 caregiver, excluding the driver, for 8 children or each fraction of 8.~~

~~—(c) For children 3 years of age, there shall be 1 caregiver, including the driver, for 10 children or each fraction of 10.~~

~~—(d) For children 4 years of age, there shall be 1 caregiver, including the driver, for 12 children or each fraction of 12.~~

~~—(e) For school age children, there shall be 1 caregiver, including the driver, for 18 children or each fraction of 18. This requirement does not apply when school age children are transported to and from school on public school transportation or are using public transportation.~~

~~—(f) An additional adult is not required if only 1 child under 36 months of age is transported.~~

~~—(g) Children who are related to the caregiver or licensee shall be counted in these ratios.~~

~~—(2) Additional staff members or volunteers shall be all of the following:~~

~~—(a) At least 16 years of age.~~

~~—(b) Seated with the children.~~

~~—(c) Responsible for the supervision of the children.~~

~~—(3) When children are entering or leaving the motor vehicle, the following safety precautions shall be taken:~~

~~—(a) The accompanying staff member, volunteer, or driver shall assure that the children are received by a staff person, parent, or other person as designated by the parent.~~

~~—(b) Children shall enter and leave the motor vehicle from the curbside unless the vehicle is in a protected parking area or driveway.~~

~~—(c) Children shall not be left unattended in a motor vehicle.~~

~~—(4) When children under school age are entering or leaving the motor vehicle, the children shall be carried or helped into and out of the motor vehicle.~~

~~R 400.5613—Time limitation on child transit. **Rescinded.**~~

~~—Rule 613. For children under school age, transportation routes shall be planned so that a child is not in the motor vehicle longer than 1 continuous hour.~~

~~R 400.5615—Parent permission for routine transportation.~~

~~—Rule 615. Parent's written permission shall be obtained annually for routine transportation including, but limited to, transportation between the child's home, center, and school.~~

PART 8. FIRE SAFETY

~~R 400.5801—Definitions. **Rescinded.**~~

~~—Rule 801. As used in this part:~~

- ~~-(a) "Basement" means a story of a building or structure having 1/2 or more of its clear height below average grade for at least 50% of the perimeter.~~
- ~~-(b) "Combustible" means materials will ignite and burn when subjected to a fire or excessive heat.~~
- ~~-(c) "Conversion" means to alter the use of an existing building or room to a center.~~
- ~~-(d) "Existing building" means a structure or part of a structure not currently used as a child care center.~~
- ~~-(e) "Existing licensed center" means a center that was licensed before the effective date of these rules and whose license continues uninterrupted.~~
- ~~-(f) "Exit" means a way of departure from the interior of a building or structure to the open air outside at ground level.~~
- ~~-(g) "Fire alarm" means a device used to alert the occupants of the building of fire or smoke conditions. The device shall be audible in all parts of the building used as a center.~~
- ~~-(h) "Fire alarm system" means an approved electrical closed circuit, self-supervised local system for sounding an alarm. The system is comprised of a central panel, manual pull stations near all outside exits, audible electric signal devices, and where warranted, a remote trouble annunciator.~~

~~All system components shall be listed by a nationally recognized testing laboratory.~~

- ~~-(i) "Fire door assembly" means a side-hinged, labeled fire door and labeled frame constructed and installed in compliance with national standards fire protection association pamphlet No. 80, 2003, "Standard for Fire Doors and Windows," with a latching device and closing device labeled or listed in compliance with the listing and re-examination service of an approved, nationally recognized testing laboratory. The national fire protection association pamphlet No. 80 is hereby adopted by reference. Copies of the adopted matter may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy Massachusetts 02269-9101, at a cost of \$23.50, or from the department of labor and economic growth, P.O. Box 30004, Lansing, Michigan 48909.~~
- ~~-(j) "Fire resistance rating" means the time for an element in a building to maintain its particular fire resistance properties in accordance with the national fire protection association pamphlet no. 251, 1999, Standards of Tests of Fire Endurance of Building Construction and Materials. The national fire protection association pamphlet No. 251 is hereby adopted by reference.~~

~~Copies of the adopted matter may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, at a cost of \$23.25 or from the department of labor and economic growth, P.O. Box 30004, Lansing, Michigan 48909.~~

- ~~-(k) "Fire resistive construction" means a building having walls, ceilings, floors, partitions, and roof of combustible materials having a minimum fire resistance rating of 1 hour. This subdivision shall not be construed as prohibiting finished wood floors, doors, and windows with assorted frames and trim.~~
- ~~-(l) "Flameproof materials" means materials that will not propagate flame under the test conditions of the national fire protection association pamphlet no. 701, 1999, "Standard Methods Of Fire Tests For Flame Propagation Of Textiles And Films." Flameproof materials are usually combustible materials with the addition of some treatment or coating to modify their burning properties. The national fire protection association pamphlet no. 701, is hereby adopted by reference. Copies of the adopted matter may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, at a cost of \$19.50 or from the department of labor and economic growth, P.O. Box 30004, Lansing, Michigan 48909.~~

- ~~-(m) "Flammable" means materials capable of being readily ignitable from common sources of heat or at a temperature of 600 degrees Fahrenheit, 316 degrees Celsius, or less.~~
- ~~-(n) "Hazard area" means those parts of a center building housing a commercial kitchen, heating plant, fire-fueled water heater, incinerator, or an area posing a higher degree of hazard than the general occupancy of the building.~~
- ~~-(o) "Heating plant room" means a room or area housing fuel fired equipment.~~
- ~~-(p) "Interior finish" means the exposed interior surface materials of walls, fixed or movable partitions, and ceilings. This includes drywall, masonry, or wood substructure and surfacing materials such as paneling, tile, or other interior finish material and any surfacing materials, such as paint or wallpaper, applied thereto. Interior finish includes materials affixed to the building structure as distinguished from decorations or furnishings.~~
- ~~-(q) "Means of egress" means a continuous and unobstructed way of exit travel from any point in a building to the outside at grade.~~
- ~~-(r) "New construction" means a created structure, addition, replacement, or alteration of structural components, such as walls.~~
- ~~-(s) "Noncombustible" means materials that will not ignite and burn when subjected to fire.~~
- ~~-(t) "Protected ordinary construction" means all of the following types of construction:~~
 - ~~-(i) Roofs and floors and their supports have minimum hourly fire resistance ratings.~~
 - ~~-(ii) Exterior bearing walls or bearing portions of exterior walls are of noncombustible or limited combustible materials and have minimum hourly fire resistance ratings and stability under fire conditions.~~
 - ~~-(iii) Nonbearing exterior walls are of noncombustible or limited combustible materials.~~
 - ~~-(iv) Roofs, floors, and interior framing are wholly or partly made of wood of smaller dimension than required for heavy timber construction.~~
- ~~-(u) "Standard partition construction" means a substantial smoke-tight assembly consisting of walls, in conjunction with ceilings at which they terminate, that are covered on both sides with minimum standard lath and plaster or ½ inch drywall over 2" x 4" studs. Doorways in these walls are protected with minimum 1 ¾ inch solid core wood doors, or their equivalent, and equipped with approved self-closing devices and have positive latching hardware. One or more glass panes are permitted in these walls and/or doors if each individual glass panel is fixed pane and not larger than 1,296 square inches of ¼ inch wired glass with no linear dimension longer than 54 inches. In some cases, drywall or plaster is also necessary to protect the underside of stairs.~~
- ~~-(v) "Textile material" means having a napped, tufted, looped, woven, non-woven or similar surface.~~
- ~~-(w) "Wired glass" means glass not less than 1/4 inch thick, reinforced with wire mesh, number 24 gauge or heavier, with spacing not greater than 1 square inch.~~
- ~~-(x) "Wood frame construction" means that type of construction in which exterior walls, bearing walls and partitions, and floor and roof constructions and their supports are made of wood or other combustible material.~~

R 400.5805–Plans and specifications; submission; approval; inspections. **Rescinded.**

- ~~–Rule 805. (1) The center shall submit to the department a complete set of plans and specifications of any proposed center or proposed addition, alteration, or remodeling to an existing center.~~
- ~~–(2) The center shall obtain written approval from the department before initiating any construction.~~

- ~~–(3) Plans shall bear the seal of a registered architect or engineer when the total cost of the project is \$15,000 or more, including labor and materials.~~
- ~~–(4) A fire safety inspection shall be conducted by the department of labor and economic growth, bureau of construction codes and fire safety and an approval granted before issuance of the original provisional license and every 4 years thereafter, at the time of renewal.~~
- ~~–(5) If a boiler is used, then it shall be inspected and a certificate provided, as required, by the boiler division, department of labor and economic growth.~~
- ~~–(6) Fuel-fired furnaces shall be inspected prior to issuance of an original license and every 2 years at renewal by a licensed heating contractor.~~
- ~~–(7) Fuel-fired water heaters shall be inspected prior to issuance of an original license and every 2 years at renewal by either a licensed heating contractor or a licensed plumbing contractor.~~
- ~~–(8) New furnace and water heater installations shall be inspected and approved by the department of labor and economic growth inspectors or local mechanical inspecting authorities at the time of installation.~~

R 400.5810—Construction. Rescinded.

- ~~–Rule 810. (1) If child occupancy is limited to the first or main floor, then the building may be of wood frame construction.~~
- ~~–(2) If child occupancy is on the second floor, then all of the following are required:~~
 - ~~–(a) The building shall be of protected ordinary construction.~~
 - ~~–(b) All required stairways and vertical openings shall be enclosed by walls, in conjunction with openings therein, and ceilings at which they terminate that meet the requirements of standard partition construction.~~
 - ~~–(c) All door openings contained in subdivision (b) of this subrule shall meet all of the following requirements:~~
 - ~~–(i) Be protected with 1 3/4 inch solid core wood doors or their equivalent.~~
 - ~~–(ii) Be installed in fully stopped smoke-tight, substantial frames.~~
 - ~~–(iii) Be equipped with approved self-closing devices and non-locking against egress positive latching hardware.~~
- ~~–(3) If child occupancy is above the second floor, then both of the following shall be required:~~
 - ~~–(a) The building shall be of 1-hour fire-resistive construction.~~
 - ~~–(b) All required stairways and other vertical openings shall be enclosed by a minimum 1-hour fire-resistive construction to provide a protected means of egress to the outside at grade.~~
- ~~–(4) A center licensed before June 4, 1980, with child occupancy on the second floor or above, shall be permitted to remain licensed under both of the following conditions:~~
 - ~~–(a) There has been no increase in capacity.~~
 - ~~–(b) There has been continued compliance with all other applicable fire safety rules, including the requirements of subrule (2) of this rule relating to the protection of stairways, vertical openings, and means of egress.~~
- ~~–(5) If any portion of a basement is used for child occupancy, then 1 of the following provisions shall be required:~~
 - ~~–(a) Two enclosed stairways of 1-hour fire-resistant construction shall terminate directly to the outside at grade, and all openings in the stairways shall be protected by "B" labeled fire doors and frame assemblies.~~
 - ~~–(b) One approved exit from the occupied room or use area shall discharge directly to the outside at grade. Travel distance from any point~~

~~in this room or area to this exit shall be less than 50 feet.~~

~~-(6) If basement occupancy is limited to not more than 30 children, then the following shall apply:~~

~~-(a) One of the exits required by subrule (5) of this rule shall discharge directly to the outside at grade or through a 1-hour fire-resistive enclosure.~~

~~-(b) The second exit may terminate at the first floor level with an approved floor separation, meeting the requirements of standard partition construction, between basement and first floor.~~

~~-(c) For new construction and conversions, the separation shall be located at the first floor with travel distance from the door to an approved exit not exceeding 100 feet.~~

~~-(7) All vertical openings and stairways that are not required shall be constructed and arranged with effective fire and smoke separation under the requirements of standard partition construction. All door openings shall~~

~~be as follows:~~

~~-(a) Protected with 1 3/4 inch solid-core wood doors or their equivalent.~~

~~-(b) Installed in fully stopped smoke-tight substantial frames.~~

~~-(c) Equipped with approved self-closing devices and non-locking against egress positive latching hardware.~~

~~-(8) Nighttime care shall be located on levels having exits directly to grade.~~

R 400.5815–Interior finishes. Rescinded.

~~Rule 815. (1) The classifications of interior finishes for flame spread and smoke development in table 1 shall be used as follows:~~

~~TABLE 1~~

~~FLAME SPREAD AND SMOKE DEVELOPMENT FOR INTERIOR FINISHES~~

Class	Flame Spread	Smoke Developed
A OR I	0-25	0-450
B OR II	26-75	0-450
C OR III	76-200	0-450

~~-(2) Basic materials in a means of egress and basement use occupancies shall be class A or I or B or II.~~

~~-(3) Basic materials in all other areas shall be class C or III.~~

~~-(4) Interior finish material more hazardous than class C or III shall be prohibited in child use areas.~~

~~-(5) If an approved automatic sprinkler system is installed, then class C interior wall and ceiling finish materials shall be permitted in any location where class B is required and class B interior wall and ceiling finish materials shall be permitted in any location where class A is required.~~

~~-(6) In an existing licensed center or conversion, existing interior finishes which do not comply with the classifications in subrule (1) of this rule may have their surfaces protected with an approved fire retardant coating to meet the classifications for interior finishes. The coatings shall be applied to interior finishes that are attached to, or furred out not more than 1 inch from a noncombustible backing and applied according to manufacturer's recommendations.~~

~~-(7) Interior finish materials of classes B and C which are less than 1/4 inch in thickness, shall be applied directly against a noncombustible backing or shall be furred out not more than 1 inch unless the tests under which such material has been classed were made with the material suspended from the noncombustible backing.~~

~~-(8) Centers licensed between June 4, 1980 and the effective date of these rules may retain previously approved fire retardant coated interior finishes.~~

- ~~–(9) Textile materials having a class A or I rating and used as an interior finish shall be permitted as follows:~~
 - ~~–(a) On walls or ceilings of rooms or areas protected by an automatic sprinkler system approved by the department.~~
 - ~~–(b) On room partitions that are less than $\frac{3}{4}$ of the floor-to-ceiling height not to exceed 8 feet in height.~~
 - ~~–(c) To extend up to 4 feet above the finished floor on ceiling-height walls and ceiling-height partitions.~~
 - ~~–(d) Centers licensed before the effective date of these rules may retain previously approved installations of textile materials.~~
 - ~~–(e) Textile materials shall be permitted on walls and partitions where tested in accordance with and meeting the standards of NFPA 265, "Standard Methods Of Fire Tests For Evaluating Room Fire Growth Contribution Of Textile Coverings On Full Height Panels And Walls," 2002 edition, which is hereby adopted by reference. Copies of the adopted matter may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, at a cost of \$32.00 or from the department of labor and economic growth, P.O. Box 30004, Lansing, Michigan 48909.~~
- ~~–(10) Drapery material may be used for stage curtains, room dividers, and similar uses if the material has been tested and approved in accordance with the national fire protection association pamphlet No. 701, "Standard Methods of Fire Tests for Flame Propagation of Textiles and Films," 1999 edition, which is hereby adopted by reference. Copies of the adopted matter may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269-9101, at a cost of \$27.00 or from the department of labor and economic growth, P.O. Box 30004, Lansing, Michigan 48909.~~
- ~~–(11) Drapery material applied to surfaces of a facility as an interior finish shall meet the requirements of subrule (9) of this rule.~~
- ~~–(12) All vinyl and wooden wall dividers shall meet the interior finish requirements of subrules (1), (2), and (3) of this rule, as applicable.~~
- ~~–(13) Bulletin boards shall meet the interior finish requirements of subrules (2) and (3) of this rule.~~

R 400.5820 Exits. Rescinded.

- ~~–Rule 820. (1) Except as referenced in R 400.5810(5) and (6)(c), each occupied floor shall have not less than 2 approved exits directly to the outside at grade, remote from each other, and occupied rooms within the center shall be located between means of egress, unless a first floor, self-contained, occupied room has an approved exit direct to the outside at grade with a maximum travel distance of 50 feet from the most remote point in the room to the exit.~~
- ~~–(2) Travel distance to an exit shall be as follows:~~
 - ~~–(a) For infants and young toddlers, travel shall be 50 feet or less from the door of the occupied room to the exit.~~
 - ~~–(b) For older toddlers to school age, travel shall be 100 feet or less from the door of the occupied room to the exit.~~
 - ~~–(c) Buildings having complete automatic sprinkler protection may increase their travel distances by 50 feet.~~

- ~~–(d) Those areas approved before the effective date of these rules are exempt from the requirements of this rule.~~
- ~~–(3) For all centers initially licensed after the effective date of these rules, programs for infants and young toddlers shall be located on levels having exits directly to grade, or exits properly ramped to grade.~~
- ~~–(4) Exit doors and all doors in the means of egress shall be side hinged and equipped with knob, or lever type, non-locking against egress or panic type hardware.~~
- ~~–(5) In rooms occupied by 21 or more children, doors shall swing in the direction of egress.~~
- ~~–(6) Means of egress shall be maintained in an unobstructed, easily traveled condition at all times that the center is in operation. Means of egress shall not be exposed to inherent hazards of the building, including heating plant, flammable storage, commercial kitchen, or other similar conditions.~~
- ~~–(7) In new construction, additions, and conversions, there shall be a floor or landing on each side of an exit door. The floor or landing shall be at the same elevation on each side of the door except for variations in elevation due to differences in finish materials, which may not exceed 1/2 inches. Landings shall have a width not less than the width of the stairway or the width of the door, whichever is greater. Landings shall have a length not less than the width of the door.~~
- ~~–(8) For new construction and additions, an exit door shall be not less than 36 inches in width. Doors to multiple use bathrooms shall not be less than 30 inches wide.~~
- ~~–(9) For the conversion of an existing building, exterior exit doors shall be not less than 36 inches wide. Other use room doors shall be not less than 28 inches wide. Single use toilet room doors shall not be less than 24 inches in width. Any remodeled door openings, other than door swing, shall comply with subrule (8) of these rules.~~
- ~~–(10) Centers licensed before the effective date of these rules may retain previously approved door widths.~~
- ~~–(11) Exterior exits shall be marked or denoted by an approved exit sign. All exit signs shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs. Each exit sign shall have the word "exit" in plain, legible letters not less than 6 inches high on a background of contrasting color with strokes not less than 3/4 inch wide.~~

R 400.5825–Hazard Areas. Rescinded.

- ~~–Rule 825. (1) In an existing licensed center, hazard areas shall be separated from the parts of the building used as a center in the following manner:~~
- ~~–(a) In centers licensed before June 4, 1980, areas used for the storage of combustibles and other hazard areas will continue to be approved if they are enclosed with a minimum 3/4 hour fire resistive construction and doorways to the areas are protected with a minimum 1 3/4 inch, solid core wood door or doors equipped with approved self-closing devices and positive latching hardware.~~
- ~~–(b) In centers licensed between June 4, 1980 and July 1, 2000, the following shall apply:~~
- ~~–(i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1 hour fire resistance rating, openings in the separation shall be protected with a "B" labeled fire door and frame assembly, including an approved self-closing device and positive latching hardware.~~
- ~~–(ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum 3/4 hour fire resistance rating, all door openings shall be protected by~~

~~minimum 1¾-inch solid core wood doors or equivalent hung in substantial frames and equipped with approved self-closing devices and positive latching hardware.~~

~~–(c) In centers licensed after July 1, 2000, including centers licensed after the effective date of these rules, the following shall apply:~~

~~–(i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1-hour fire resistance rating, openings in the separation shall be protected with a "B" labeled fire door and frame assembly, including an approved self-closing device and positive latching hardware.~~

~~–(ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum 1-hour fire resistance rating. All door openings shall be protected by minimum 1¾-inch solid core wood doors or equivalent hung in substantial frames and equipped with approved self-closing devices and positive latching hardware.~~

~~–(2) Where a kitchen with commercial cooking equipment exposes a required means of egress or use area, it shall be separated from the remainder of the building with minimum 1-hour fire resistive construction including "B" labeled fire door and frame assemblies in all common openings. Kitchens having commercial cooking equipment protected by an approved automatic kitchen hood suppression system are exempt from this requirement.~~

~~–(3) An incinerator shall be separated from the remainder of the center by construction having a 1-hour fire resistance rating. Openings between the incinerator room and the remainder of the building shall be protected with a "B" labeled fire door and frame assembly. In new construction, the incinerator room shall have not less than 1 outside wall containing a window or door opening directly to the outside.~~

~~–(4) Heating shall be by a central heating plant, or an approved permanently installed electrical heating system. If heating is provided by a central heating plant and located on the same floor that is used for child occupancy, it shall be installed in an enclosure providing not less than a 1-hour fire-resistive separation, including a "B" labeled fire door and frame assembly equipped with an approved self-closing device and positive latching hardware in any interior door opening. Door openings for heat plant enclosures not located on the same floor that is used for child occupancy may have 1¾-inch solid wood core doors having positive latching hardware and an approved self-closing device or equivalent. Air for proper combustion shall be provided directly from the outside through a permanently opened louver or noncombustible duct. The storage of combustible materials in a heating plant room is prohibited.~~

~~–(5) In an existing licensed center, a properly installed heating plant located in a basement which is not used for child occupancy does not require additional protection where there is a qualified fire separation and with at least a 1¾-inch solid core wood door or equivalent hung in a substantial frame and equipped with an approved self-closing device and positive latching hardware in all stairway openings.~~

~~–(6) Any fuel fired water heater or other similar equipment shall be located according to subrules (4) or (5) of this rule, as applicable.~~

~~–(7) Where electric heating is used, it shall be underwriters' laboratories, inc. labeled or listed permanent, fixed-type electrical heating such as recognized panel or baseboard fixed-type. Electric heating which complies with this requirement may be installed in any location.~~

~~–(8) An auxiliary heating unit, such as a portable combustion or electrical type, shall not be used.~~

~~–(9) The center shall not store flammable materials, including fuels, pressurized cans, cleaning fluids and supplies, polishes, and matches, in heat plant enclosures. These items may be stored outside of child use areas in metal cabinets or storage facilities accessible only to authorized personnel.~~

- ~~–(10) The center shall not store combustible materials within the central heating plant or fuel fired water heater rooms or in basements containing fuel fired heating equipment, without a proper fire separation.~~
- ~~–(11) The center shall not permit gasoline powered equipment in the part of a building which is used as a center or in other parts of the building from which there is a door, window, or other opening into the center, unless that part of the building is separated from the remainder of the building by minimum 2 hour fire resistive construction.~~
- ~~–(12) If commercial type laundry equipment is installed, then the equipment shall be enclosed to provide a 1 hour resistance to fire, including a "B" labeled fire door and frame assembly in an interior door opening which would expose the center.~~
- ~~–(13) Fire dampers shall not be required in 3/4 hour and 1 hour fire resistive enclosures.~~

R 400.5835—Multiple occupancy. Rescinded.

- ~~–Rule 835. (1) Multiple occupancy of a building may qualify for licensure if the entire building does not present a life safety hazard. A center currently licensed in such a building may continue as long as such occupancies do not change in character.~~
- ~~–(2) A building, part of which is used for hazardous operations or for occupancy that is unpredictable, such as taverns, garages, repair shops, and industrial operations, shall not be permitted for center use. However,~~
- ~~an exception may be made for a vocational education center approved by the department of labor and economic growth.~~

R 400.5840—Fire alarm. Rescinded.

- ~~–Rule 840. (1) In any building used as a center, if more than 1 room is occupied by children, then an approved fire alarm shall be established.~~
- ~~This system may be either electrical or manual.~~
- ~~–(2) In centers of more than 4 child occupied rooms, excluding bathrooms, or in centers licensed for more than 60 children, an approved fire alarm system shall be installed.~~
- ~~–(3) In new construction, conversions, remodeling, or new licensed centers, the trouble signal for required fire alarm systems shall be located in an area normally occupied by staff.~~

R 400.5841—Smoke detectors; carbon monoxide detectors. Rescinded.

- ~~–Rule 841. (1) Newly constructed centers, additions, and conversions shall be equipped with approved single station smoke detectors covering all use areas and their means of egress.~~
- ~~–(2) A carbon monoxide detector, bearing a safety certification mark of a recognized testing laboratory such as UL (Underwriters Laboratories) or ETL (Electrotechnical Laboratory), shall be placed on all levels approved for child care.~~
- ~~–(3) Centers shall properly install and maintain all detectors in operable condition in accordance with manufacturer's recommendations.~~

R 400.5845—Fire extinguishers. Rescinded.

~~Rule 845. (1) The center shall install multipurpose fire extinguishers, having ratings of not less than 2A-10BC in or adjacent to the kitchen or cooking area and in or adjacent to the door of, the heating plant room.~~
~~(2) The requirement of having additional multipurpose fire extinguishers with ratings of not less than 2A-10BC shall be determined by the fire inspecting authority and shall be based on the capacity of the center and~~
~~on other conditions in the facility.~~
~~(3) Fire extinguishers shall be properly mounted, inspected, and maintained in accordance with pamphlet no. 10 entitled "Standard for Portable Fire Extinguishers," 2002, which may be obtained at the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269 at a cost of \$33.50 or from the department of labor and economic growth, P.O. Box 30004, Lansing, Michigan 48909. The fire extinguisher shall bear a tag indicating the last date of inspection or service and the initials of the person who performed the inspection or service.~~

R 400.5850—Electrical service. Rescinded.

~~Rule 850. (1) The electrical service shall be maintained in a safe condition.~~
~~(2) For new construction and additions, electrical systems and service shall be inspected and approved by the electrical inspecting authority having jurisdiction. A copy of the certificate of approval shall be maintained at the center at all times.~~
~~(3) When warranted, conversions of existing buildings and existing rooms to child care use, as well as existing licensed centers, may require an electrical inspection.~~
~~(4) Extension cords listed by a nationally recognized laboratory, and used in accordance with all manufacturer's recommendations, may be used on~~
~~a temporary basis, and for short periods of time.~~
~~(5) All electrical outlets in child use areas for children who are not yet school age shall be made inaccessible to children.~~
~~(6) All electrical outlets in approved child care space located within 6 feet of a sink or other water source shall be protected by a ground fault circuit interrupter (GFCI).~~

R 400.5856—Open flame devices; candles. Rescinded.

~~Rule 856. All open flame devices and candles shall be prohibited, except for religious celebrations.~~

R 400.5865—Occurrence of fire; report. Rescinded.

~~Rule 865. If a fire occurs in a center that requires the use of fire suppression equipment or results in loss of life or property, it is~~
~~the responsibility of the center to notify the local fire authority and~~
~~the department of all details of the fire. This notification shall occur immediately after the occurrence of the fire.~~

R 400.5870—Fire safety; exemptions for public and nonpublic school buildings. Rescinded.

~~Rule 870. The rules with respect to fire prevention and fire safety shall not apply to a child care center established and operated by an intermediate school board, the board of a local school district, the board or governing body of a state approved nonpublic school, or by a person or entity~~

~~with whom a school contracts for services, if the child care center is located in a school building that is approved by the state fire marshal or other similar authority.~~

~~PART 9. ENVIRONMENTAL HEALTH~~

~~R 400.5900a-Definitions. Rescinded.~~

~~Rule 900a. As used in this part:~~

- ~~(a) "Corrosion resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bacterial solutions, and other conditions of use environment.~~
- ~~(b) "Easily cleanable" means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.~~
- ~~(c) "Food service equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a child care center.~~
- ~~(d) "Food" means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.~~
- ~~(e) "Food contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.~~
- ~~(f) "Food processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.~~
- ~~(g) "Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and to maintain the commercial sterility of its content after processing.~~
- ~~(h) "Packaged" means bottled, canned, cartoned, or securely wrapped.~~
- ~~(i) "Potentially hazardous food" means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.~~
- ~~(j) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.~~
- ~~(k) "Sealed" means free of cracks or other openings that permit the entry or passage of moisture.~~
- ~~(l) "Single service articles" means those food service articles intended for 1 time, 1 person use and then discarded.~~
- ~~(m) "Tableware" means multiuse eating and drinking utensils.~~
- ~~(n) "Utensil" means any implement used in the storage, preparation, transportation, or service of food.~~

~~R 400.5901-Plan review; approval. Rescinded.~~

~~Rule 901. The center shall comply with all local health authority requirements regarding plans and specifications and submit written confirmation to the department that this has occurred.~~

R 400.5902—Food preparation areas. Rescinded.

- ~~—Rule 902 (1) Food contact surfaces are to be smooth, nontoxic, easily cleanable, durable, corrosion resistant, and nonabsorbent.~~
- ~~—(2) Carpeting is prohibited.~~
- ~~—(3) Mechanical ventilation to the outside is required for all commercial cooking equipment, which includes but is not limited to stoves, ranges, ovens, griddles, and fryers.~~
- ~~—(4) If residential hood ventilation is used, then cooking equipment shall be limited to a stove/oven combination.~~
- ~~—(5) Mechanical ventilation to the outside may be required if a problem is evidenced.~~
- ~~—(6) The use of deep fryers is prohibited.~~
- ~~—(7) Live animals shall be prohibited from food preparation and eating areas.~~

R 400.5902a—Food and equipment storage. Rescinded.

- ~~—Rule 902a. (1) Each refrigerator shall have an accurate working thermometer indicating a temperature 41° Fahrenheit or below.~~
- ~~—(2) All artificial lighting fixtures located over, by, or within food storage, preparation, service areas, or where utensils and equipment are cleaned and stored, shall be properly shielded.~~
- ~~—(3) Unpackaged bulk foods shall be stored in clean covered containers, dated, and labeled as to the contents.~~
- ~~—(4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it from cross-contamination from food requiring washing or cooking.~~
- ~~—(5) Packaged food shall not be stored in contact with water or undrained ice.~~
- ~~—(6) Poisonous or toxic materials shall not be stored with food, food service equipment, utensils, or single-service articles.~~
- ~~—(7) Food, food service equipment, and utensils shall not be located under exposed or unprotected sewer lines, open stairwells, or other sources of contamination. Automatic fire protection sprinkler heads are the exception.~~
- ~~—(8) The storage of food, food service equipment, or utensils in toilet rooms is prohibited.~~
- ~~—(9) Food and utensils shall be stored a minimum of 6 inches above the floor.~~
- ~~—(10) All food service equipment shall be 6 inches off the floor, moveable, or be properly sealed to the floor.~~
- ~~—(11) Meals that are transported shall be prepared in commercial kitchens and delivered in carriers approved by the environmental health authority.~~

R 400.5902b—Food supplies. Rescinded.

- ~~—Rule 902b. (1) Food shall be in sound condition, free from spoilage, filth, or other contamination and be safe for human consumption.~~
- ~~—(2) Home canned products are prohibited.~~
- ~~—(3) All fluid milk and fluid milk products shall be pasteurized and meet the grade "A" quality standards.~~

R 400.5902c–Food preparation. Rescinded.

~~–Rule 902c. (1) The hands of children and staff shall be thoroughly washed before handling food and before eating.~~

~~–(2) Guidelines for hand washing shall be posted in food preparation areas and toilet rooms.~~

~~–(3) Food shall be prepared with the least possible manual contact, using suitable utensils, and surfaces that have been washed, rinsed, and sanitized.~~

~~Serving utensils shall be used by staff or provided to children who serve themselves.~~

~~–(4) Raw fruits and vegetables shall be thoroughly washed before being cooked or served.~~

~~–(5) Food shall be cooked to heat all parts of the food to the safe temperature as identified in the 1999 recommendations of the food and drug administration of the United States public health service 3-401,~~

~~–as referenced in the Michigan food code, 2000 PA 92, MCL 289.1107.~~

~~These recommendations are available on the web at no cost at <http://www.fda.gov>, and are available for inspection at the Michigan department of human services, P.O. Box 30650, Lansing, Michigan 48909.~~

~~–(6) Potentially hazardous foods shall be thawed using 1 of the following methods:~~

~~–(a) In the refrigerator at a temperature not to exceed 41 degrees Fahrenheit.~~

~~–(b) Under cold running water.~~

~~–(c) In a microwave oven for either of the following:~~

~~–(i) The food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process.~~

~~–(ii) The entire cooking process takes place in the microwave oven.~~

~~–(d) As part of the conventional cooking process.~~

~~–(7) The temperature of potentially hazardous foods shall be 41 degrees Fahrenheit or below or 140 degrees Fahrenheit or above at all times,~~

~~–except during necessary periods of preparation.~~

~~–(8) Potentially hazardous foods that have been cooked and then refrigerated shall be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility.~~

~~–(9) Accurate metal stem type food thermometers shall be used to assure the attainment and maintenance of proper internal cooking, holding, reheating, or refrigeration temperatures of all potentially hazardous foods.~~

~~–(10) Food, already served and handled by the consumer of the food, may not be served again, unless food is in a wrapper such as single service crackers.~~

~~–(11) Milk shall be served from any of the following:~~

~~–(a) A commercially filled container stored in a mechanically refrigerated bulk milk dispenser.~~

~~–(b) A commercially filled container not to exceed 1 gallon.~~

~~–(c) A sanitized container only if poured directly from the original container.~~

~~–(12) All of the following shall apply to milk:~~

~~–(a) Containers shall be labeled with the date and time opened.~~

~~–(b) Milk shall be served within 7 days of opening.~~

~~–(c) Milk shall not be served if the contents appear to be unsanitary, or have been unrefrigerated for a period exceeding 1 hour.~~

~~–(d) Milk shall not be combined with the contents of other partially filled containers.~~

~~–(13) Contents remaining in single service containers of milk shall be discarded at the end of the snack or meal time.~~

~~–(14) On field trips, all foods shall be protected from contamination at all times.~~

- ~~-(a) The temperature of potentially hazardous foods shall be maintained at 41 degrees Fahrenheit or below, except during necessary periods of preparation and service.~~
- ~~-(b) Potentially hazardous foods needing to be cooked shall be cooked to proper temperatures before being served.~~
- ~~-(c) Food service equipment shall be maintained in a clean and sanitary manner at all times.~~
- ~~-(d) In the absence of proper hand washing facilities, people preparing and serving food shall wear sanitary disposable food service gloves.~~

R 400.5902d—Sanitization. Rescinded.

- ~~—Rule 902d. (1) All tableware, utensils, food contact surfaces, and food service equipment shall be thoroughly washed, rinsed, and sanitized after each use.~~
- ~~-(2) Enamelware utensils are prohibited.~~
- ~~-(3) Reuse of single service articles is prohibited.~~
- ~~-(4) Centers using multiuse tableware and utensils shall use one of the following methods:~~
 - ~~-(a) A commercial dishwasher.~~
 - ~~-(b) A domestic dishwasher with sanitizing capability.~~
 - ~~-(c) A 3 compartment sink and adequate drain boards.~~
 - ~~-(d) A 2 compartment sink for washing and rinsing with a third container suitable for complete submersion for sanitizing, and adequate drain boards.~~
- ~~-(5) Centers using the manual washing method shall do all of the following:~~
 - ~~-(a) Rinse and scrape all utensils and tableware before washing.~~
 - ~~-(b) Thoroughly wash in detergent and water.~~
 - ~~-(c) Rinse in clear water.~~
 - ~~-(d) Sanitize using 1 of the following methods:~~
 - ~~-(i) Immersion for at least 30 seconds in clean, hot water of at least 170 degrees Fahrenheit.~~
 - ~~-(ii) Immersion for at least 1 minute in a solution containing between 50 and 100 parts per million of chlorine or comparable sanitizing agent at a temperature of at least 75 degrees Fahrenheit. A test kit or other device which measures parts per million concentration of the solution shall be used when a chemical is used for sanitizing.~~
 - ~~-(e) Air dry.~~
- ~~-(6) Moist cloths, used for wiping counter and tabletops, shall be clean, rinsed frequently in an approved sanitizing solution, stored in the sanitizing solution between uses, and not used for other purposes.~~
- ~~-(7) Sponges shall not be used in a food service operation.~~

R 400.5903—Poisonous or toxic materials. Rescinded.

- ~~—Rule 903. Containers of poisonous or toxic materials shall be clearly labeled for easy identification of contents and stored out of reach of children.~~

R 400.5905—Premises. Rescinded.

- ~~—Rule 905. (1) The center shall be located on land that provides good natural drainage or that is properly drained.~~
- ~~-(2) Stairs, walkways, ramps, landings, and porches shall meet the following requirements:~~

- ~~–(a) If elevated, shall have barriers to prevent falls and handrails designed and constructed for use by children.~~
- ~~–(b) Shall be maintained in a safe condition relative to the accumulation of water, ice, or snow, and shall have nonslip surfacing.~~
- ~~–(c) Landings shall be located outside exit doors where steps or stairs are necessary and shall be at least as wide as the swing of the door.~~
- ~~–(d) Stairway steps shall be not more than 8 inches in height, with a minimum tread depth of 9 inches.~~
- ~~–(e) If ramps are used, then they shall have a minimum rise to run ratio of 1 to 12.~~

R 400.5910—Heating; temperature. Rescinded.

- ~~–Rule 910. (1) The temperature in child use areas shall be maintained at a safe and comfortable level so that children do not become overheated, chilled, or cold.~~
- ~~–(2) The indoor temperature shall be at least 65 degrees Fahrenheit in child use areas at a point 2 feet above the floor.~~
- ~~–(3) If temperatures exceed 82 degrees Fahrenheit, then measures shall be taken to cool the children.~~

R 400.5915—Light, ventilation, and screening. Rescinded.

- ~~–Rule 915. (1) The total ventilation area in every habitable room, as provided by openable windows, shall be not less than 4½ percent of the floor area, unless central air conditioning is provided.~~
- ~~–(2) If ventilation is dependent on a mechanical system, then the system shall be on at all times while the building is occupied and shall comply with the ventilation requirements of the applicable mechanical code of the authority having jurisdiction.~~
- ~~–(3) Artificial light or natural light, or both, shall be capable of providing a minimum illumination of 20 foot candles over the entire room at a height of 3 feet from the floor.~~
- ~~–(4) Windows used for ventilation shall be supplied with screening of not less than 16 mesh, which shall be kept in good repair. This subrule does not apply to child care programs operating in school buildings.~~
- ~~–(5) Propping doors open for ventilation is prohibited.~~

R 400.5920—Water supply; plumbing. Rescinded.

- ~~–Rule 920. (1) The water system shall comply with the requirements of the local health authority.~~
- ~~–(2) Plumbing shall be designed, constructed, installed, and maintained to prevent cross connection with the water system.~~
- ~~–(3) Sinks, lavatories, drinking fountains, and other water outlets shall be supplied with safe water, sufficient in quantity and pressure, to meet conditions of peak demand.~~

R 400.5925—Toilets; handwashing sinks. Rescinded.

- ~~–Rule 925. (1) The center shall have 1 toilet and 1 handwashing sink for every 15 children or fraction thereof. A center operating with children in attendance less than 5 continuous hours a day shall provide at least 1 toilet and 1 handwashing sink for every 20 children or fraction thereof beyond the first 20.~~

- ~~–(2) After the effective date of these rules, any center that is new, relocates, adds an infant/toddler component, or increases the licensed infant/toddler capacity, shall have a diapering area with a designated handwashing sink.~~
- ~~–(3) Handwashing sinks shall be accessible to children by platform or installed at children's level.~~
- ~~–(4) Handwashing sinks shall have warm running water and be accessible to children. Both of the following apply:~~
 - ~~–(a) Water temperature shall not exceed 120 degrees Fahrenheit.~~
 - ~~–(b) Soap and single service towels or other approved hand drying devices shall be provided.~~
- ~~–(5) Toilet rooms for school-age children shall provide for privacy.~~
- ~~–(6) All newly constructed or remodeled facilities shall include separate hand washing sinks in the kitchen and diapering areas.~~

R 400.5930—Sewage disposal. Rescinded.

- ~~–Rule 930. (1) Sewage and other water carried wastes shall be disposed of through a municipal or private sewer system.~~
- ~~–(2) Private sewer/septic systems shall be designed and operated to safely dispose of all wastewater generated, shall be adequate in size for the projected use and meet the criteria of the environmental health department.~~

R 400.5935—Garbage and refuse. Rescinded.

- ~~–Rule 935. (1) The center shall store garbage in watertight containers with tight fitting covers. If a dumpster is used, then garbage shall be placed in sealed plastic bags.~~
- ~~–(2) The center shall provide a garbage can with a waterproof liner, or the garbage can shall be thoroughly cleaned after each emptying.~~
- ~~–(3) The center shall have garbage and refuse removed at intervals of at least once a week.~~

R 400.5940—Maintenance of premises. Rescinded.

- ~~–Rule 940. (1) The premises shall be maintained in a clean and safe condition.~~
- ~~–(2) The premises shall be maintained so as to eliminate and prevent rodent and insect harborage.~~
- ~~–(3) Roofs, exterior walls, doors, skylights, and windows shall be weathertight and watertight and shall be kept in sound condition and good repair.~~
- ~~–(4) Floors, interior walls, and ceilings shall be sound, in good repair, and maintained in a clean condition.~~
- ~~–(5) All plumbing fixtures and water and waste pipes shall be properly installed and maintained in good working condition. Each water heater shall be equipped with a thermostatic temperature control and a pressure relief valve, both of which shall be in good working condition.~~
- ~~–(6) All toilet room floor surfaces shall be constructed and maintained so as to be impervious to water and to permit the floor to be easily kept in a clean condition.~~
- ~~–(7) Light fixtures, vent covers, wall mounted fans and similar equipment attached to walls and ceilings shall be easily cleanable and maintained in good repair.~~
- ~~–(8) Child care centers licensed after the effective date of these rules located in structures built before 1978 shall have a lead hazard~~

~~risk assessment performed by a certified lead risk assessor. Any lead hazards identified shall be addressed as noted in the lead hazard risk assessment report. The results of the assessment shall be kept on file in the center.~~

~~(9) As required by 1994 PA 451, MCL 324.8316, the center shall develop and implement an integrated pest management program when pesticide applications occur in the building. The integrated pest management program shall include, but not be limited to, the following:~~

~~(a) An annual notification shall be provided by centers to parents or guardians informing them that they will receive advance notice of pesticide applications.~~

~~(b) The annual notification to parents or guardians shall specify 2 methods by which the advance notice of pesticide application will be given.~~

~~(c) An advance notice shall contain information about the pesticide, including the target pest or purpose, approximate location, date of the application, contact information at the center, and a toll-free number for a national pesticide information center recognized by the Michigan department of agriculture.~~

~~(d) Liquid spray or aerosol insecticide applications may not be performed in a room of a child care center unless the room will be unoccupied by children for not less than 4 hours or longer if required by the pesticide label use directions.~~

PART 1. GENERAL PROVISIONS FOR ALL CHILDREN

R 400.8101 Definitions.

Rule 101. As used in these rules:

(a) “Accredited college or university” means a college or university that has been accredited by a regional or national institutional accrediting association recognized by the United States department of education.

(b) “Ages” means all of the following:

(i) “Infant” - birth until 1 year of age.

(ii) “Young toddler” – 1 year of age until 30 months of age.

(iii) “Older toddler” – 30 months of age until 3 years of age.

(iv) “Preschooler” – 3 years of age until eligible to attend a grade of kindergarten or higher.

(v) “School-ager” – a child who is eligible to attend a grade of kindergarten or higher, but less than 13 years of age. A child is considered a school-ager on the first day of the school year in which he or she is eligible.

(c) “Caregiver” means a person 18 years of age or older who provides direct care, education, supervision, and guidance of children. A 17-year-old shall qualify as a caregiver if he or she meets 1 of the following:

(i) Has satisfactorily completed at least 1 year of a vocational-occupational child care aide training program approved by the department of licensing and regulatory affairs.

(ii) Has completed 1 year of apprenticeship in a recognized child care apprenticeship program sponsored by the United State department of labor.

(d) “Center” means a child care center or day care center which is a facility other than a private residence, which receives 1 or more children under the age of 12 for care for periods of less than 24 hours a day, and at which the parents or guardians are not immediately available to the children. “Center” includes a facility that provides care for not less than 2 consecutive weeks, regardless of the number of hours of care per day. The facility is generally described as a child

care center, day care center, day nursery, nursery school, parent cooperative preschool, prekindergarten, play group, or drop-in center. “Center” does not include any of the following:

(i) A Sunday school, a vacation Bible school, or a religious instructional class which is conducted by a religious organization and at which children are in attendance for not more than 3 hours per day for an indefinite period, or not more than 8 hours per day for a period not to exceed 4 weeks during a 12-month period, or a facility operated by a religious organization where children are cared for not more than 3 hours while persons responsible for the children are attending religious services.

(ii) A special education program or service conducted under the authority of article 3 of 1976 PA 451, MCL 380.1701 to 380.1766.

(iii) A kindergarten operated by a local or intermediate school district under the authority of 1976 PA 451, MCL 380.1 to 380.761 or as part of a nonpublic elementary school. However, this exemption shall not apply to a nonpublic kindergarten operated as part of a center.

(iv) A program that is primarily supervised, school-age-child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time a child is involved in supervised, school-age-child-focused training.

(v) A program that is primarily an incident of group athletic or social activities for school-age children sponsored by or under the supervision of an organized club or hobby group, including, but not limited to, youth clubs, scouting, and school-age recreational or supplementary education programs. This exclusion applies only to the time the school-age child is engaged in the group athletic or social activities and if the school-age child can come and go at will.

(e) “CEU” means a continuing education unit awarded by a state board of education or an accredited college or university sponsor of continuing education units.

(f) “Degrees and semester hours” means only those degrees and hours from an accredited college or university.

(g) “Department” means the department of human services.

(h) “Developmentally appropriate” means age appropriate as well as appropriate to the individual child.

(i) “Easily cleanable” means that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(j) “Field trip” means children and caregivers leaving the center premises for an excursion, trip, or program activity.

(k) “First aid kit” means a kit containing, at a minimum, all of the following: bandage compresses (sterile gauze pads), adhesive compresses, a 40-inch triangular bandage, a roll of gauze, and an elastic bandage. A first aid kit is prohibited from containing any non-prescription or prescription medications as defined under R 400.8152.

(l) “Group size” means the specified number of children assigned to a caregiver or team of caregivers occupying an individual classroom or well-defined space for each group within a larger room. Two or more groups may be combined for collective activities as long as appropriate child/staff ratios are maintained in the room or area.

(m) “Licensee designee” means the individual designated in writing by the board of directors of the corporation or by the owner or person with legal authority to act on behalf of the company or organization on licensing matters.

(n) “Parent” or “parental” means a child’s parent, guardian, or other legally responsible person.

(o) “Playspace” means a piece or pieces of age-appropriate toys, play equipment, and materials that 1 child can use independently for 15 minutes.

(p) “Program components” means the different services offered by a center. They include, but are not limited to, infant/toddler, preschool, and school-age care and education; nighttime care; food service; swimming; and transportation.

(q) “Routine transportation” means regularly scheduled travel on the same day of the week, at the same time, to the same destination.

(r) “Sanitization” means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level.

(s) “School” means a building or part of a building which is owned or leased by, or under the control of, a public or private school or school system for the purpose of instruction as required by 1976 PA 451, MCL 380.1561 which is occupied by 6 or more students, and which is used 4 or more hours per day or more than 12 hours per week.

(t) “Staff” means any compensated employee of the center.

(u) “Volunteer” means a person 16 years of age or older who is not a compensated employee of the center. Volunteers may be counted in the caregiver-to-child ratios outlined in R 400.8182(3) if they meet the definition of caregiver as defined by subdivision (c) of this rule.

(v) “Well-defined space” means space designed and used exclusively for a specific group of children.

R 400.8104 Rule variances.

Rule 104. (1) Upon written request of an applicant or licensee, the department may grant a variance from an administrative rule if the alternative proposed provides clear and convincing evidence that the health, welfare, and safety of children is protected.

(2) The decision of the department, including the conditions under which the variance was granted, shall be kept on file at the center.

(3) The granted variance may remain in effect for as long as the licensee continues to comply with the conditions of the variance or may be time-limited.

(4) Variances will not be granted from statutory requirements.

R 400.8107 Center license applicant.

Rule 107. (1) A center license applicant shall meet all of the following qualifications:

(a) Be of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47.

(b) Be suitable to meet the needs of children.

(c) Be able to assure that the proposed services and facilities are conducive to the welfare of children.

(d) Demonstrate a willingness and ability to comply with 1973 PA 116, MCL 722.111 to 722.128, and the rules promulgated under the act.

(2) Before issuance of the original provisional license, a center license applicant shall comply with applicable child care center administrative rules.

R 400.8110 Licensee.

Rule 110. (1) The licensee shall do all of the following:

(a) Be of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47.

(b) Be suitable to meet the needs of children.

(c) Comply with section 5c of 1973 PA 116, MCL 722.115c, requirements for a Michigan department of state police criminal history record check, a criminal records check through the federal bureau of investigation, and a department of human services check for a history of substantiated abuse and neglect.

(d) Be responsible for compliance with 1973 PA 116, MCL 722.111 to 722.128, and the rules promulgated under the act.

(e) Report to the department within 3 business days after any arraignment as indicated in section 5e of 1973 PA 116, MCL 722.115e, and any subsequent conviction.

(2) The licensee shall have the financial stability and administrative capability to operate the center in order to provide the services and facilities that are conducive to the welfare of children.

(3) The following shall be in a place accessible and visible to parents:

(a) The current license and if applicable, the letter extending the license beyond the expiration date.

(b) A copy of the current child care center administrative rules and a copy of any variances granted.

(c) A notice stating that the center requires a criminal history check on its employees and whether the center requires a criminal history check on its volunteers.

(4) There shall be a licensing notebook on the premises which includes all licensing inspection and special investigation reports and related corrective action plans since May 28, 2010 and a summary sheet outlining the documents contained in the notebook. The notebook shall be made available to parents and prospective parents at all times during the center's normal hours of operation.

(5) The actual number and ages of children in care at any time shall never exceed the number and ages of children for which the center is licensed.

(6) A child shall only be released to persons authorized by the parent.

(7) A child shall be released to either parent unless a court order prohibits release to a particular parent. A copy of the order prohibiting release shall be kept on file at the center.

(8) Within 5 business days, the licensee shall notify the department of the separation of a program director from the center and a plan for replacement of the program director.

(9) The licensee shall cooperate with any state or local department or agency inspections or investigations related to the child care license by both of the following:

(a) Providing access to all relevant records, materials, and staff.

(b) Assuring information provided is accurate and truthful.

(10) Written approval from the department shall be obtained before making any changes in the terms of the license, including but not limited to, adding use space, changing age groups served, changing program components, changing the capacity of the center, or making changes to a room or well-defined space that will result in a change in capacity of the room or well-defined space.

(11) The records required by 1973 PA 116, MCL 722.111 to 722.128, and the rules promulgated under the act must be retained and made available to the department upon request for 2 years, except the following:

(a) The name, address, and telephone number for each child enrolled and each employee for at least 2 years after he/she has left the center.

(b) Staff and volunteer health records as required by R 400.8128 and documentation of qualifications shall be retained until that person has left the center.

(c) The licensing notebook shall be maintained and retained until the license is closed.

(12) Smoking shall not occur in or during either of the following:

(a) In the child care center or on real property that is under the control of the center and upon which the center is located.

(b) On field trips and in vehicles when children are present.

R 400.8113 Program director qualifications; responsibilities.

Rule 113. (1) As used in this rule:

(a) “Child-related field” for an early childhood program director means elementary education, child guidance/counseling, child psychology, family studies, and social work.

(b) “Child-related field” for a school-age program director means early childhood education, elementary education, secondary education, physical education and recreation, child development, child guidance/counseling, child psychology, family studies, social work, human services, and youth development.

(c) “Child care administration” means child care administration, education administration, or business administration.

(d) “Child development associate credential (CDA)” means a credential awarded by the council for professional recognition or similar credential approved by the department.

(e) “Early childhood program director” means the program director of a center serving children of all ages.

(f) “Hours of experience” means experience serving the ages and developmental abilities of children for which the center is licensed.

(g) “Montessori credential” means a credential issued by the association Montessori internationale (AMI), American Montessori society (AMS), or any Montessori teaching training institution recognized by the Montessori accreditation council for teacher education (MACTE) that meets or exceeds 270 hours of academic training.

(h) “Michigan school-age/youth development credential” means a credential issued by the Michigan afterschool association or similar credential approved by the department.

(i) “School-age program director” means the program director of a center serving only school-age children.

(2) Before hiring a new program director, a center shall submit the credentials of the proposed program director to the department for review and approval.

(3) A program director shall be present in the center in the following manner:

(a) Full time for programs operating less than 6 continuous hours.

(b) At least 50% of the time children are in care but not less than a total of 6 hours for programs operating 6 or more continuous hours.

(4) All program directors are responsible for the general management of the center, including the following minimum responsibilities:

(a) Developing, implementing, and evaluating center policies and program.

(b) Administering day-to-day operations including being available to address parent, child, and staff issues.

(c) Monitoring staff, including an annual evaluation of each staff member.

(5) A program director may also serve as a caregiver, provided that role does not interfere with management and supervisory responsibilities.

(6) If absent from the center, the program director shall designate a staff member to be in charge who at least meets the qualifications of caregiver.

(7) A substitute program director shall be appointed for a program director who has left employment or has a temporary absence that exceeds 30 consecutive workdays until return or

replacement. A substitute program director shall at least meet the qualifications of lead caregiver. The department shall be notified when a substitute program director is appointed.

(8) All program directors shall have all of the following qualifications:

(a) Be at least 21 years of age.

(b) Have earned a high school diploma or GED.

(9) Early childhood program directors shall meet 1 of the following qualifications:

(a) Bachelor's degree or higher in early childhood education or child development.

(b) Bachelor's degree or higher in a child-related field including 18 semester hours in early childhood education or child development and 480 hours of experience.

(c) Associate's degree in early childhood education or child development including 18 semester hours in early childhood education or child development and 480 hours of experience.

(d) Montessori credential with 18 semester hours in early childhood education or child development and 960 hours of experience.

(e) Valid child development associate credential with 18 semester hours in early childhood education or child development and 960 hours of experience.

(f) Sixty semester hours including 18 semester hours in early childhood education or child development and 1,920 hours of experience.

(10) School-age program directors shall meet 1 of the following qualifications:

(a) Bachelor's degree or higher in a child-related field.

(b) Associates degree or higher in a child-related field and 480 hours of experience.

(c) Montessori credential with 12 semester hours in a child-related field and 480 hours of experience.

(d) Valid Michigan school-age/youth development credential with 12 semester hours in a child-related field and 480 hours of experience.

(e) Valid child development associate credential with 12 semester hours in a child-related field and 480 hours of experience.

(f) Sixty semester hours including 12 semester hours in a child-related field and 720 hours of experience.

(g) High school diploma/GED with 6 semester hours in a child-related field and 2,880 hours of experience.

(11) Program directors qualified under subrule (9)(e) or (10)(e) of this rule with an expired child development associate credential have 1 year from the effective date of these rules to obtain a valid child development associate credential.

(12) Program directors qualified under subrule (10)(d) of this rule with an expired Michigan school-age/youth development credential have 1 year from the effective date of these rules to obtain a valid Michigan school-age/youth development credential.

(13) All program directors shall have at least 2 semester hours or 3.0 CEUs in child care administration or have an administrative credential approved by the department. These semester hours may satisfy a portion of the requirements of subrules (9) and (10) of this rule.

(14) An early childhood program director employed as a program director since December 7, 2004 without a break in service is exempt from the requirements in subrules (9) and (13) of this rule.

(15) A school-age program director meeting the qualifications of subrule (10)(a) or (10)(b) of this rule or having 5 years of experience as a program director before December 7, 2006 is exempt from the requirements of subrule (13) of this rule.

(16) A program director is exempt from the requirements of subrule (13) of this rule with verification that all duties required by subrule (4)(a) and (c) of this rule are handled by a central

administrator and the central administrator meets the requirements of subrule (13) of this rule. Verification of the duties and education of the central administrator shall be made available to the department upon request.

(17) School-age program directors for programs operating 5 or more continuous hours that are hired after the effective date of these rules shall meet 1 of the qualifications of subrule (10)(a) to (f) of this rule.

(18) Verification of the education, credentials, and experience of the program director shall be kept on file at the center.

R 400.8116 Multi-site school-age program director.

Rule 116. (1) A school-age program director with a bachelor's degree or higher in a child-related field may oversee up to 3 sites with the following conditions:

(a) Each program routinely operates 6 hours or fewer per day.

(b) The multi-site school-age program director is available to the site supervisor during all hours of program operation.

(2) The multi-site school-age program director shall be at each site a minimum of 1 session per week and maintain written documentation of site visits, including dates and times.

R 400.8119 Site supervisor qualifications; responsibilities.

Rule 119. (1) For multi-site school-age programs, with a school-age program director responsible for more than 1 center, a site supervisor shall be present during all hours of operation.

(2) Site supervisors shall meet all of the following:

(a) Be at least 19 years of age.

(b) Have earned a high school diploma, GED, or equivalent.

(c) Have 480 hours of experience working as a caregiver in a program serving school-age children that meets the requirements of section 1 of 1973 PA 116, MCL 722.111.

(d) Have completed 15 clock hours, 1 semester hour, or 1.5 CEUs of documented school-age training.

(3) Site supervisors shall be responsible for the daily operation and implementation of the site program, supervision of the site staff, and overall care and supervision of children.

(4) Site supervisors shall assist the multi-site school-age program director in all of the following:

(a) Developing, implementing, and evaluating program and center policies.

(b) Administering day-to-day operations, including being available to address parent, child, and staff issues.

(c) Monitoring and overseeing staff.

(5) Verification of the requirements of subrule (2)(c) and (d) shall be kept on file at the center.

R 400.8122 Lead caregiver qualifications; responsibilities.

Rule 122. (1) As used in this rule:

(a) "Child-related field" means elementary education, child guidance/counseling, child psychology, family studies, and social work.

(b) "Child development associate credential (CDA)" means a credential awarded by the council for professional recognition or similar credential approved by the department.

(c) "Montessori credential" means a credential issued by the association Montessori internationale (AMI), American Montessori society (AMS), or any Montessori teaching training

institution recognized by the Montessori accreditation council for teacher education (MACTE) that meets or exceeds 270 hours of academic training.

(d) “Hours of experience” means experience serving the ages and developmental abilities of children for whom the caregiver will provide care.

(2) Lead caregivers are required only for groups of children who are preschool age and younger.

(3) At least 1 lead caregiver shall be assigned to each group of children in self-contained or well-defined space and shall be present and providing care in the assigned group in the following manner:

(a) Full time for programs operating less than 6 continuous hours.

(b) At least 6 hours per day for programs operating 6 or more continuous hours.

(4) Lead caregivers shall be responsible for both of the following:

(a) Overseeing the planning, implementation, and evaluation of the classroom program and child assessment.

(b) Overseeing caregiving staff for a specific group of children and overall care and supervision of children.

(5) Lead caregivers shall have both of the following qualifications:

(a) Be at least 19 years of age.

(b) Have a high school diploma or GED.

(6) Lead caregivers shall meet 1 of the following qualifications:

(a) Bachelor’s degree or higher in early childhood education, child development, or a child-related field.

(b) Associate’s degree or higher in early childhood education or child development.

(c) Montessori credential with 480 hours of experience.

(d) Valid child development associate credential with 480 hours of experience.

(e) High school diploma/GED with 12 semester hours in early childhood education, child development, or a child-related field and 960 hours of experience.

(f) High school diploma/GED with a combination of 12 semester hours and/or 18 CEUs to equal 180 clock hours in early childhood education, child development, or a child-related field and 1,920 hours of experience.

(g) High school diploma/GED with a combination of 6 semester hours and/or 9 CEUs to equal 90 clock hours in early childhood education, child development, or a child-related field and 3,840 hours of experience.

(7) Lead caregivers hired after the effective date of these rules shall meet 1 of the qualifications of subrule (6)(a) to (f) of this rule.

(8) Lead caregivers qualified under subrule (6)(d) of this rule with an expired child development associate credential have 1 year from the effective date of these rules to obtain a valid child development associate credential.

(9) Lead caregivers for infants and toddlers shall have 3 semester hours or 4.5 CEUs in infant/toddler development and care practices within 6 months of hire. These semester hours or CEUs may satisfy a portion of the requirements of subrule (6) of this rule.

(10) A substitute for a lead caregiver shall be appointed for a lead caregiver who has left employment or has a temporary absence that exceeds 30 consecutive workdays until return or replacement. A substitute lead caregiver shall meet at least the qualifications of lead caregiver or be currently enrolled in relevant training.

(11) Verification of the education, credentials, and experience of each lead caregiver shall be kept on file at the center.

R 400.8125 Staff and Volunteers.

Rule 125. (1) All staff and volunteers shall provide appropriate care and supervision of children at all times.

(2) All staff shall be of responsible character and suitable to meet the needs of children.

(3) Both of the following shall be developed and implemented:

(a) A written screening policy for all staff and volunteers, including parents.

(b) A written policy regarding supervision of volunteers, including volunteers who are parents of a child in care.

(4) A criminal history check using the Michigan department of state police internet criminal history access tool (ICHAT), or equivalent, for a person's state of official residence, shall be completed before making an offer of employment to that person. A copy of the ICHAT shall be kept on file at the center.

(5) A staff member shall not be present in the center if he or she has been convicted of any of the following:

(a) A listed offense, as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) Child abuse or child neglect.

(c) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.

(6) Documentation shall be on file at the center that a volunteer has not been convicted of any of the following before having unsupervised contact with children:

(a) A listed offense, as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(b) Child abuse or child neglect.

(c) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of offering to volunteer at the center.

(7) Documentation from the department of human services that each staff member has not been named in a central registry case as the perpetrator of child abuse or child neglect shall be on file at the center before having contact with a child in care.

(8) Documentation from the department of human services that a volunteer has not been named in a central registry case as the perpetrator of child abuse or child neglect shall be on file at the center before having unsupervised contact with a child in care.

(9) If a staff person has resided outside of this state within the 10 years immediately preceding the date of hire, a criminal history check equivalent to Michigan department of state police internet criminal history access tool (ICHAT) and the department of human services central registry clearance shall be completed for all states of previous residence during those 10 years. The criminal history check and central registry clearance equivalents shall be kept on file at the center.

(10) The documentation required by subrule (4), (6), (7) and (8) of this rule shall be updated every 2 years at renewal and upon request by the department and shall be kept on file at the center.

(11) A written plan to assure compliance with section 3 of the child protection law, 1975 PA 238, MCL 722.623, shall be developed and implemented.

(12) A written statement shall be signed and dated by staff and volunteers at the time of hiring or before volunteering indicating all of the following information:

(a) The individual is aware that abuse and neglect of children is against the law.

- (b) The individual has been informed of the center's policies on child abuse and neglect.
- (c) The individual knows that all staff and volunteers are required by law to immediately report suspected abuse and neglect to children's protective services.

R 400.8128 Health of staff and volunteers.

Rule 128. (1) A report, signed by a licensed health care provider, shall be kept on file for all staff members and for each volunteer who has contact with children at least 4 hours per week for more than 2 consecutive weeks. This report shall declare, to the best of the physician's knowledge, the mental and physical capability of the staff member or volunteer to perform the duties required. The report shall be signed not more than 6 months before, or 30 days after, the start of employment or volunteering.

(2) Evidence that all staff members and each volunteer who has contact with children at least 4 hours per week for more than 2 consecutive weeks is free from communicable tuberculosis, verified within 1 year before employment or volunteering, shall be kept on file at the center.

R 400.8131 Professional development requirements.

Rule 131. (1) The center shall provide an orientation of the center's policies and practices and the child care administrative rules to all staff hired after the effective date of these rules and before unsupervised contact with children.

(2) Caregivers shall have training that includes information about infant safe sleep and shaken baby syndrome before caring for infants and toddlers.

(3) Before unsupervised contact with children, each caregiver, site supervisor, and program director shall complete blood-borne pathogen training.

(4) All program directors, site supervisors, and caregivers shall complete 16 clock hours of professional development annually on topics relevant to job responsibilities, including, but not limited to, child development and learning; health, safety and nutrition; family and community collaboration; program management; teaching and learning; observation, documentation, and assessment; interactions and guidance; professionalism; and the child care center administrative rules. CPR and first aid training may count for up to 2 hours of the annual professional development hours.

(5) An on-going professional development plan shall be developed and implemented to include all the training and professional development required by the child care center administrative rules.

(6) On-line trainings and correspondence courses shall have an assessment of learning.

(7) All program directors, lead caregivers, and at least 1 caregiver on duty in the center at all times in programs serving preschool age children and younger shall have current first aid and infant, child, and adult CPR training.

(8) All program directors, site supervisors, and at least 1 caregiver on duty in the center at all times in programs serving only school-age children shall have current first aid and child and adult CPR training.

(9) Verification of all professional development required by this rule shall be kept on file at the center. Verification shall be issued from the training organization or trainer and include the date of the course, the name of the training organization or trainer, the topic covered, and the number of clock hours.

R 400.8134 Hand washing.

Rule 134 (1) As used in this rule, hand washing means to cleanse the hands with soap and warm running water for at least 20 seconds.

(2) All staff and volunteers shall wash their hands at all of the following times:

- (a)** Upon arrival at the center.
- (b)** Before preparing and serving food, eating, and feeding children.
- (c)** Before giving medication.
- (d)** After each diapering.
- (e)** After using the toilet or helping a child use the toilet.
- (f)** After handling bodily fluids.
- (g)** After handling animals and pets and cleaning cages.
- (h)** After handling garbage.
- (i)** When soiled.

(3) Staff and volunteers shall assure that children wash their hands at all of the following times:

- (a)** Before meals, snacks, or food preparation experiences.
- (b)** After toileting or diapering.
- (c)** After handling animals and pets.
- (d)** When soiled.

(4) Guidelines for hand washing shall be posted in food preparation areas, in toilet rooms, and by all hand washing sinks.

(5) When soap and running water are not available during an outing, hand sanitizers, and/or single-use wipes may be used as a temporary measure.

R 400.8137 Diapering; toileting.

Rule 3137 (1) Diapering shall occur in a designated diapering area that complies with all of the following:

- (a)** Is physically separated from food preparation and food service.
- (b)** Is within close proximity to a sink that is used exclusively for hand washing.
- (c)** Has non-absorbent, smooth, easily sanitized surfaces in good repair.
- (d)** Is of sturdy construction with railings or barriers to prevent falls.
- (e)** Is at an adult work surface height.
- (f)** Is washed, rinsed, and sanitized after each use.

(2) Children 1 year of age and older may be changed in a bathroom standing up or on a nonabsorbent, easily sanitized surface with a changing pad between the child and the surface.

Subrule (1)(e) of this rule does not apply.

(3) Diapering supplies shall be within easy reach of the designated diapering area.

(4) A plastic-lined, tightly covered container shall be used exclusively for disposable diapers and training pants and diapering supplies that shall be emptied and sanitized at the end of each day.

(5) Only single-use disposable wipes or other single-use cleaning cloths shall be used to clean a child during the diapering or toileting process.

(6) Diapers and training pants shall be checked frequently and changed when wet or soiled.

(7) Guidelines for diapering shall be posted in diapering areas.

(8) Disposable gloves, if used for diapering, shall only be used once for a specific child and be removed and disposed of in a safe and sanitary manner immediately after each diaper change.

(9) The following shall apply when cloth diapers or training pants are used:

- (a) Each cloth diaper or training pant shall be covered with an outer waterproof covering. The diaper or training pant and outer covering shall be removed as a singular unit when wet or soiled.
- (b) The diaper, training pant and outer covering shall not be reused until washed and sanitized.
- (c) No rinsing of the contents shall occur at the center.
- (d) Soiled diapers or training pants shall be placed in a plastic-lined, covered container and used only for that child's soiled diapers or training pants.
- (e) Soiled diapers or training pants shall be stored and handled in a manner that will not contaminate any other child contact items and shall not be accessible to children.
- (f) Soiled diapers or training pants shall be removed from the center every day by the child's parent.
- (g) A child's supply of clean diapers or training pants shall only be used for that child.
- (10) Toilet learning/training shall be planned cooperatively between the child's regular caregivers and the parent so that the toilet routine established is consistent between the center and the child's home.
- (11) Equipment used for toilet learning/training shall be provided. All of the following equipment is acceptable for toilet learning/training:
 - (a) Adult-sized toilets with safe and easily cleanable modified toilet seats and step aids.
 - (b) Child-sized toilets.
 - (c) Non-flushing toilets (potty chairs) if they are all of the following:
 - (i) Made of a material that is easily cleanable.
 - (ii) Used only in a bathroom area.
 - (iii) Used over a surface that is impervious to moisture.
 - (iv) Washed, rinsed, and sanitized after each use.

R 400.8140 Discipline.

Rule 140. (1) Positive methods of discipline that encourage self-control, self-direction, self-esteem, and cooperation shall be used.

- (2) The following means of punishment shall be prohibited:
 - (a) Hitting, spanking, shaking, biting, pinching, or inflicting other forms of corporal punishment.
 - (b) Restricting a child's movement by binding or tying him or her.
 - (c) Inflicting mental or emotional punishment, such as humiliating, shaming, or threatening a child.
 - (d) Depriving a child of meals, snacks, rest, or necessary toilet use.
 - (e) Excluding a child from outdoor play or other gross motor activities.
 - (f) Excluding a child from daily learning experiences.
 - (g) Confining a child in an enclosed area, such as a closet, locked room, box, or similar cubicle.
- (3) Non-severe and developmentally appropriate discipline or restraint may be used when reasonably necessary, based on a child's development, to prevent a child from harming himself or herself or to prevent a child from harming other persons or property, excluding those forms of punishment prohibited by subrule (2) of this rule.
- (4) A policy shall be developed and implemented regarding the discipline of children. The policy shall be all of the following:
 - (a) In written form.
 - (b) Age appropriate.
 - (c) Provided to staff and parents.

R 400.8143 Children's records.

Rule 143. (1) At the time of the child's initial attendance, the center shall obtain a child information card, using a form provided by the department or a comparable substitute, completed and signed by the parent, and the center shall keep it on file and accessible in the center.

(2) Child information cards shall be reviewed and updated by parents at least annually and when the center becomes aware of changes.

(3) At the time of initial attendance, 1 of the following shall be obtained and kept on file and accessible in the center for children under school-age:

(a) A certificate of immunization showing a minimum of 1 dose of each immunizing agent specified by the department of community health.

(b) A copy of a waiver addressed to the department of community health and signed by the parent stating immunizations are not being administered due to religious, medical, or other reasons.

(4) When a child under school-age whose immunizations were not up-to-date at the time of enrollment has been in attendance for 4 months, an updated certificate showing completion of all additional immunization requirements as specified by the department of community health shall be kept on file unless there is a signed statement by a licensed health care provider stating immunizations are in progress.

(5) Under section 9211 of 1978 PA 368, MCL 333.9211(2), immunizations shall be reported to the department of community health for all children enrolled using the method established by the department of community health by October 1 of each year.

(6) Within 30 days of initial attendance, 1 of the following shall be obtained and kept on file and accessible in the center:

(a) For infants: A physical evaluation performed within the preceding 3 months signed by a licensed health care provider. Restrictions shall be noted.

(b) For young toddlers: A physical evaluation performed within the preceding 6 months signed by a licensed health care provider. Restrictions shall be noted.

(c) For older toddlers and preschoolers: A physical evaluation performed within the preceding year signed by a licensed health care provider. Any restrictions shall be noted.

(7) Physical evaluations shall be updated as follows:

(a) Yearly for infants and young toddlers.

(b) Every 2 years for older toddlers and preschoolers.

(8) Upon enrollment and annually thereafter, the center shall obtain and keep on file at the center a signed statement from the school-age child's parent confirming all of the following:

(a) The child is in good health with activity restrictions noted.

(b) The child's immunizations are up-to-date.

(c) The immunization record or appropriate waiver is on file with the child's school.

(9) The center shall assure that if a parent objects to a physical examination or medical treatment on religious grounds, then the parent provides a signed statement annually that the child is in good health and that the parent assumes responsibility for the child's state of health while at the center.

(10) The center shall maintain an accurate record of daily attendance at the center that includes each child's first and last name and each child's arrival and departure time.

(11) Parent's written permission for the child's participation in field trips shall be obtained at the time of enrollment or before each field trip and kept on file at the center.

R 400.8146 Information provided to parents.

Rule 146. (1) A center shall provide a written information packet to each parent enrolling a child that includes at least all of the following:

- (a) Criteria for admission and withdrawal.
- (b) Schedule of operation, denoting hours, days, and holidays during which the center is open and services are provided.
- (c) Fee policy.
- (d) Discipline policy.
- (e) Food service policy.
- (f) Program philosophy.
- (g) Typical daily routine.
- (h) Parent notification plan for accidents, injuries, incidents, illnesses.
- (i) Exclusion policy for child illnesses.
- (j) Notice of the availability of the center's licensing notebook. The notice shall include all of the following:
 - (i) The licensing notebook contains all the licensing inspection and special investigation reports and related corrective action plans since May 28, 2010.
 - (ii) The licensing notebook is available to parents during regular business hours.
 - (iii) Licensing inspection and special investigation reports from at least the past 2 years are available on the child care licensing website at www.michigan.gov/michildcare. The website address must be in bold print.
- (2) Written documentation that the parent received the written information packet as required by subrule (1) of this rule shall be kept on file at the center.
- (3) For infants and young toddlers, parents shall receive a written daily record that includes at least the following information:
 - (a) Food intake; time, type of food, and amount eaten.
 - (b) Sleeping patterns; when and how long child slept.
 - (c) Elimination patterns, including bowel movements, consistency, and frequency.
 - (d) Developmental milestones.
 - (e) Changes in the child's usual behaviors.
- (4) Parents of children with special needs may request a written daily record that includes at least the information required by subrule (3) of this rule.
- (5) Parents shall be notified before each field trip.

R 400.8149 Parent permission for transportation.

- Rule 149. (1)** Parent's written permission shall be obtained annually for routine transportation.
- (2) Parent's written permission for any transportation not considered routine shall be obtained before each trip.
 - (3) Permission for all transportation shall be kept on file at the center.

R 400.8152 Medication; administrative procedures.

Rule 152. (1) Medication, prescription or nonprescription, shall be given to a child by an adult caregiver only.

(2) A caregiver shall give or apply medication, prescription or nonprescription, only with prior written permission from a parent.

(3) All medication shall be its original container, stored according to instructions, and clearly labeled for a named child.

(4) Prescription medication shall have the pharmacy label indicating the physician's name, child's name, instructions, and name and strength of the medication and shall be given according to those instructions.

(5) A caregiver shall keep all medication out of the reach of children and shall return it to the child's parent or destroy it when the parent determines it is no longer needed or it has expired.

(6) A caregiver shall give or apply any prescription or nonprescription medication according to the directions on the original container unless authorized by a written order of the child's physician.

(7) A caregiver shall not add medication to a child's bottle, beverage, or food unless indicated on the prescription label.

(8) Topical nonprescription medication, including, but not limited to sunscreen and insect repellent, requires written parental authorization annually.

(9) The center shall maintain a record as to the time and the amount of medication given or applied, with the exception of subrule (8) of this rule, on a form provided by the department or a comparable substitute approved by the department. The signature of the caregiver administering the medication shall be included.

R 400.8155 Child accidents and incidents; child and staff illness.

Rule 155. (1) A plan for when and how parents will be notified when the center observes changes in the child's health, a child experiences accidents, injuries, or incidents, or when a child is too ill to remain in the group shall be developed and implemented.

(2) The center shall assure that a child too ill to remain in the group is placed in a separate area and is cared for and supervised until the parent arrives.

(3) Items and facilities used by an ill child or adult shall not be used by any other person until washed, rinsed, and sanitized.

(4) If the center becomes aware that a staff member, volunteer, or child in care has contracted a communicable disease, then the center shall notify parents of the following:

(a) The name of the communicable disease.

(b) The symptoms of the disease.

(5) A policy detailing when children, staff, and volunteers will be excluded from child care due to illness shall be developed and implemented.

R 400.8158 Incident, accident, injury, illness, death, fire reporting.

Rule 158. (1) A center shall make a verbal report to the department within 24 hours of the occurrence of any of the following:

(a) A child is lost or left unsupervised.

(b) An incident involving an allegation of inappropriate contact.

(c) The death of a child in care.

(d) A fire on the premises of the center that requires the use of fire suppression equipment or results in loss of life or property.

(2) A center shall make a verbal report to the department within 24 hours of notification by a parent that a child received medical treatment or was hospitalized for an injury, accident, or a serious illness, or medical condition that occurred while the child was in care.

(3) A center shall submit a written report to the department of the occurrences outlined in subrules (1) and (2) of this rule in a format provided by the department within 72 hours of the verbal report to the department.

(4) A center shall keep a copy of the report on file at the center.

R 400.8161 Emergency procedures.

Rule 161. (1) Written procedures for the care of children and staff for each of the following emergencies shall be developed and implemented:

(a) Fire.

(b) Tornado.

(c) Other natural or man-made disasters.

(d) Serious accident/illness/injury.

(e) Crisis management including, but not limited to, intruders and-bomb threats.

(2) The written procedures shall include all of the following:

(a) A plan for evacuating and safely moving children to a relocation site.

(b) A method for contacting parents and reuniting families.

(c) A plan for how each child with special needs will be accommodated during each type of emergency.

(3) The plans required by subrule (1)(a) to (d) shall be posted in a place visible to staff and parents.

(4) The crisis management plan shall only be posted in a place visible to staff.

(5) A fire drill program consisting of at least 1 fire drill quarterly shall be established and implemented.

(6) A tornado drill program consisting of at least 2 tornado drills between the months of April through October shall be established and implemented.

(7) A written log indicating the date and time of fire and tornado drills shall be kept on file at the center.

(8) Each staff member shall be trained at least twice a year on his or her duties and responsibilities for all emergency procedures referenced in subrule (1) of this rule.

(9) If cribs are used in emergency evacuations, then all doors within the means of egress shall be wide enough to readily accommodate the crib evacuation.

R 400.8164 Telephone service.

Rule 164. (1) A land-line telephone, excluding pay phones, cell phones, and cordless phones, shall be available, operable, and accessible in the building during the hours that the center is in operation. An operable land-line telephone does not require electricity in the center to operate.

(2) During the hours the center is in operation, a telephone number known to the public and available to parents to provide immediate access to the center shall be provided.

(3) Emergency telephone numbers, including 911, fire, police, and the poison control center, and the facility's physical address and 2 main cross streets, shall be conspicuously posted immediately adjacent to all center telephones.

R 400.8167 Indoor space.

Rule 167. (1) The required square footage of indoor space per child shall be at least the following:

- (a) Fifty square feet for infants and young toddlers.**
- (b) Thirty-five square feet for older toddlers, preschoolers, and school-agers.**
- (2) The following indoor space is excluded from the required square footage:**
 - (a) Hallways.**
 - (b) Bathrooms.**
 - (c) Reception and office areas.**
 - (d) Kitchens.**
 - (e) Storage areas and cloakrooms.**
 - (f) Areas used exclusively for resting, sleeping, or eating, except for infants and young toddlers.**
- (3) A center shall provide a floor plan of all child use areas to the department at initial licensure and before making structural changes or adding any child use space. Only space that has received prior approval for child use by the department may be used for child care.**

R 400.8170 Outdoor play area.

Rule 170. (1) As used in this rule:

- (a) “Certified playground safety inspector” means an individual certified by the National Playground Safety Institute or the National Program for Playground Safety to conduct playground safety inspections.**
- (b) “Natural playground” means an outdoor play area that blends natural materials, features, and vegetation.**
- (2) The outdoor play area shall be considered an outdoor classroom and an extension of the learning environment.**
- (3) A center operating with children in attendance for 3 or more continuous hours per day shall provide daily outdoor play, unless prevented by inclement weather or other weather conditions that could result in children becoming overheated or excessively chilled.**
- (4) A center operating with children in attendance for 3 or more continuous hours a day shall have an outdoor play area that has at least 1,200 square feet. More than 1,200 square feet of outdoor play area may be required when the minimum amount is not adequate for the number of children for which the center is licensed.**
- (5) If outdoor space is not available adjacent to the center, then a center may use a park or other outdoor facility. All of the following shall apply:**
 - (a) The area shall be easily accessible by a safe walking route.**
 - (b) The play area shall be inspected before each use to ensure that no hazards are present.**
 - (c) The location of the alternative outdoor play area shall be specified in writing to the department.**
- (6) There shall be a shaded area to protect children from excessive sun exposure, when necessary.**
- (7) The outdoor play area shall be in a safe location.**
- (8) The outdoor play area shall be protected from hazards, when necessary, by a fence or natural barrier that is at least 48 inches in height.**
- (9) Children shall only use age-appropriate equipment.**

(10) An outdoor play area and any equipment located on the center's premises shall be maintained in a safe condition and inspected daily before use to ensure that no hazards are present.

(11) The playground equipment, use zones, and surfacing in the outdoor play area shall be inspected by a certified playground safety inspector and an approval granted for playground equipment and areas used before issuance of an original provisional license, upon request of the department, and before using any newly added playground equipment. The center shall provide documentation of the inspection to the department upon request and shall keep it on file at the center.

(12) Loose-fill surfacing material shall not be installed over concrete or asphalt.

(13) The depth of the loose-fill surface material shall be restored to its required depth when it has moved or becomes otherwise compromised.

(14) If children's wheeled vehicles and pull toys are used, then a suitable surface shall be provided for their use.

(15) Materials used on a natural playground shall not be in the use zones for other playground equipment.

(16) The elevated playing surface of materials used on a natural playground shall not exceed 30 inches.

(17) Materials used on a natural playground with elevated playing surfaces shall not be installed over concrete or asphalt.

(18) Surfacing materials are not required under elevated playing surfaces on a natural playground.

(19) School-age centers operating in school buildings approved by the Michigan department of education are exempt from subrule (11) of this rule, provided the licensee informs parents, in writing at the time of enrollment, if the center plans to use a public school's outdoor play area and equipment that does not comply with this rule.

R 400.8173 Equipment.

Rule 173. (1) A center shall not use equipment, materials, and furnishings recalled or identified by the United States consumer product safety commission (www.cpsc.gov) as being hazardous.

(2) The current list of unsafe children's products that is provided by the department shall be conspicuously posted in the center, as required by section 15 of the children's product safety act, 2000 PA 219, MCL 722.1065.

(3) Play equipment, materials, and furniture, shall be all of the following:

(a) Appropriate to the developmental needs and interests of children as required by R 400.8179.

(b) Safe, clean, and in good repair.

(c) Child-sized or appropriately adapted for a child's use.

(d) Easily accessible to the children.

(4) Sufficient materials and equipment shall be available to provide a minimum of 3 playspaces per child in the licensed capacity.

(5) A minimum of 2 playspaces shall be accessible per child in attendance on any given day during child-initiated activity time.

(6) Children shall have access to equipment and materials in the following areas on a daily basis:

(a) Large and small muscle activity.

(b) Sensory exploration.

(c) Social interaction and dramatic play.

- (d) Discovery and exploration.
- (e) Early math and science experiences.
- (f) Creative experiences through art, music, and literature.
- (7) A current and accurate equipment inventory shall be provided to the department before issuance of the original provisional license and at each renewal.
- (8) Indoor large muscle activity equipment over 30 inches high shall have at least 1-inch thick mats in all directions around the perimeter of the equipment.
- (9) A first aid kit shall be readily accessible to staff and securely stored in the center.
- (10) A rocking chair or other comfortable, adult-sized seating shall be provided for 50% of the caregiving staff on duty who are providing infant and toddler care.
- (11) Trampolines shall not be used by children in care.

R 400.8176 Sleeping equipment.

Rule 176. (1) All bedding and sleeping equipment shall be appropriate for the child; be clean, comfortable, and safe; and be in good repair.

- (2) A crib or porta-crib shall be provided for all infants in care.
- (3) A crib, porta-crib, cot, or mat and a sheet or blanket of appropriate size shall be provided for all toddlers in care.
- (4) A cot or a mat and a sheet or blanket of appropriate size shall be provided as follows:
 - (a) For all preschoolers in care for 5 or more continuous hours.
 - (b) For any child in care who regularly naps.
 - (c) Upon a parent's request for any child in care.
- (5) Car seats, infant seats, swings, bassinets, and playpens are not approved sleeping equipment.
- (6) A center shall not use stacking cribs.
- (7) Cribs and porta-cribs shall comply with the federal product safety standards issued by the consumer product safety commission.
- (8) A crib or porta-crib shall have a firm, tight-fitting mattress.
- (9) A tightly fitted bottom sheet shall cover the crib or porta-crib mattress with no additional padding placed between the sheet and mattress.
- (10) Soft objects, bumper pads, stuffed toys, blankets, quilts, comforters, and other objects that could smother a child shall not be placed in a crib or porta-crib with a resting or sleeping infant.
- (11) Blankets shall not be draped over cribs or porta-cribs.
- (12) Cots and mats shall be constructed of a fabric or plastic which is easily cleanable.
- (13) All sleeping equipment and bedding shall be washed, rinsed, and sanitized when soiled, between uses by different children, and at least once a week regardless of use by different children.
- (14) When sleeping equipment and bedding are stored, both of the following apply:
 - (a) Sleeping surfaces shall not come in contact with other sleeping surfaces.
 - (b) Bedding shall not come in contact with other bedding.
- (15) All occupied cribs and porta-cribs shall be spaced at least 2 feet apart and in such manner that there is a free and direct means of egress.
- (16) All occupied cots and mats shall be spaced at least 18 inches apart and in a manner that there is a free and direct means of egress.

R 400.8179 Program.

Rule 179. (1) As used in this rule:

(a) “Confining equipment” means equipment used to assist in caring for infants and includes, but is not limited to, swings, stationary activity centers, infant seats, and molded seats.

(b) “Media” means use of electronic devices with a screen, including but not limited to, televisions, computers, tablets, multi-touch screens, interactive white boards, mobile devices, cameras, movie and music players, e-book readers, and electronic game consoles.

(c) “Interactive media” means media designed to facilitate active and creative use by children and to encourage social engagement with other children and adults.

(d) “Non-interactive media” means media which are used passively by children.

(2) A center shall implement a program plan which includes daily learning experiences appropriate to the developmental level of the children. Experiences shall be designed to develop all of the following:

(a) Physical development.

(b) Social development.

(c) Emotional development.

(d) Cognitive development.

(3) The program shall be planned to provide a flexible balance of all of the following experiences:

(a) Quiet and active.

(b) Individual and groups.

(c) Large and small muscle.

(d) Child initiated and staff initiated.

(4) Developmentally appropriate experiences shall be designed so that throughout the day each child has opportunities to do all of the following:

(a) Feel successful and feel good about him or herself and develop independence.

(b) Practice social interaction skills.

(c) Use materials and takes part in activities which encourage creativity.

(d) Learn new ideas and skills.

(e) Participate in imaginative play.

(f) Participate in developmentally appropriate language and literacy experiences.

(g) Participate in early math and science experiences.

(h) Be physically active.

(5) A school-age program shall supplement the areas of development not regularly provided for during the school day.

(6) A typical daily routine shall be posted in a place visible to parents.

(7) When awake, use of confining equipment for infants shall be minimized, not to exceed 30 minutes at a time.

(8) Use of media is prohibited for children under 2 years of age.

(9) When media are used with children 2 years of age and older, all of the following apply:

(a) Activities shall be developmentally appropriate.

(b) Interactive media shall be used to support learning and to expand children’s access to content and shall be suitable to the age of the child in terms of content and length of use per session.

(c) Media with violent or adult content are prohibited while children are in care.

(d) Use of non-interactive media shall not exceed 2 hours per week per child.

(e) When media are available for children’s use, other activities shall also be available to children.

(10) An exception to the requirements of subrule (9)(d) of this rule may be made under the following conditions:

(a) School-age children use computers and any other electronic devices for academic and educational purposes.

(b) Children use assistive and adaptive technology.

(11) For children with special needs, care shall be provided according to the child's needs as identified by parents, medical personnel, and/or other relevant professionals.

(12) Parents may visit the center during hours of operation for the purpose of observing their children.

R 400.8182 Ratio and group size requirements.

Rule 182. (1) At least 2 adults, 1 of whom is a caregiver, shall be present at all times when at least 3 children between the ages of birth and 3 years of age are present. A second caregiver is required when needed to comply with subrule (3) of this rule.

(2) At least 2 adults, 1 of whom is a caregiver, shall be present at all times when 7 or more children over 3 years of age are present. A second caregiver is required when needed to comply with subrule (3) of this rule.

(3) In each room or well-defined space, the maximum group size and ratio of caregivers to children, including children related to a staff member or the licensee, shall be the following:

	Age	Caregiver to Child Ratio	Maximum Group Size
(a)	Infants and Young Toddlers, birth until 30 months of age	1 to 4	12
(b)	Older Toddlers, 30 months of age until 3 years of age	1 to 8	16
(c)	Preschoolers, 3 years of age until 4 years of age	1 to 10	Not applicable
(d)	Preschoolers, 4 years of age until school-age	1 to 12	Not applicable
(e)	School-agers	1 to 18	Not applicable

(4) Volunteers may be counted in the caregiver to child ratios outlined in subrule (3) of this rule if they meet the definition of caregiver as defined by R 400.8101(d).

(5) Children who have reached 33 months of age may, when developmentally appropriate, be enrolled in a 3-year-old classroom with written parental permission. The ratio listed in subrule (3)(c) of this rule shall apply.

(6) Children who have reached 45 months of age may, when developmentally appropriate, be enrolled in a 4-year-old classroom with written parental permission. The ratio listed in subrule (3)(d) of this rule shall apply.

(7) Children who have reached 5 years of age but who are not considered a school-ager under R 400.8101(b)(v) may, when developmentally appropriate, be enrolled in a school-age classroom with written parental permission. The ratio listed in subrule (3)(e) of this rule shall apply.

(8) If there are children of mixed ages in the same room or well-defined space, then the ratio and group size shall be determined by the age of the youngest child, unless each group of children is clearly separated and the appropriate caregiver-to-child ratios and group sizes, if applicable, for each age group are maintained.

(9) An exception to the requirements of subrule (3) of this rule may be made when the center is transporting children and is in compliance with R 400.8760(1) and (2).

R 400.8185 Primary care.

Rule 185. (1) As used in this rule, “primary caregiver” means the caregiver to whom the care of a specific infant or young toddler is assigned. The primary caregiver is responsible for direct care, verbal and physical interactions, primary responses to the child’s physical and emotional needs, and continued interaction with the child’s parents regarding the child’s experiences.

(2) The center shall implement a primary care system so that each infant and young toddler has a primary caregiver.

(3) Each infant and young toddler shall have not more than 4 primary caregivers in a week. For centers operating less than 24 hours a day, an exception may occur during the first hour after the center opens and the hour before closing.

(4) Information regarding a child’s food, health, and temperament shall be shared daily between caregivers when more than 1 primary caregiver is assigned to any infant or young toddler.

(5) Primary caregiving assignments shall be documented and provided to parents.

(6) An exception to R 400.8185 may be made when the center is transporting children and is in compliance with R 400.8760(1) and (2).

R 400.8188 Sleeping, resting, and supervision.

Rule 188. (1) Infants and toddlers shall be provided opportunities to rest regardless of the number of hours in care.

(2) The center shall permit children under 18 months of age to sleep on demand.

(3) Infants shall rest or sleep alone in cribs or porta-cribs.

(4) Infants shall be placed on their backs for resting and sleeping.

(5) Infants unable to roll from their stomachs to their backs and from their backs to their stomachs shall be placed on their backs when found face down.

(6) When infants can easily turn over from their stomachs to their backs and from their backs to their stomachs, they shall be initially placed on their backs, but shall be allowed to adopt whatever position they prefer for sleep.

(7) For an infant who cannot rest or sleep on her or his back due to disability or illness, written instructions, signed by the infant’s licensed health care provider, detailing an alternative safe sleep position and/or other special sleeping arrangements for the infant shall be followed and on file at the center.

(8) A sleeping infant’s breathing, sleep position, and bedding shall be monitored frequently for possible signs of distress.

(9) An infant’s head shall remain uncovered during sleep.

(10) Toddlers shall rest or sleep alone in cribs, porta-cribs, or on mats or cots.

(11) Infants and toddlers who fall asleep in a space that is not approved for sleeping shall be moved to approved sleep equipment appropriate for their age and size.

(12) Naptime or quiet time shall be provided when children under school-age are in attendance 5 or more continuous hours per day.

(13) Resting or sleeping areas shall have adequate soft lighting to allow the caregiver to assess children.

(14) Video surveillance equipment and baby monitors shall not be used in place of subrule (8) of this rule and R 400.8125(1).

R 400.8191 Nighttime care.

Rule 191. (1) If a child is in care between the hours of 11 p.m. and 6 a.m., a separate area away from sleeping children where the child can engage in quiet activities shall be available.

(2) If a child is in care for more than 1 hour between the hours of 11 p.m. and 6 a.m., a bed and mattress, with a waterproof covering, of a size appropriate to the age of each child shall be available.

ENVIRONMENTAL HEALTH PROVISIONS

R 400.8301 Definitions.

Rule 301. As used in this part:

(a) “Bulk foods” are larger quantities of food that are used over time, such as flour, sugar, noodles, rice, etc. Food that is used up in a week or less, such as crackers, are not considered bulk foods.

(b) “Corrosion-resistant materials” means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bacterial solutions, and other conditions-of-use environment.

(c) “Food grade surface” means a surface that is easily cleanable and made from a material that will not migrate into, contaminate, or taint the food.

(d) “Food service equipment” means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items other than utensils, used in the operation of a center.

(e) “Food” means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(f) “Food-contact surface” means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back onto surfaces normally in contact with food.

(g) “Packaged” means bottled, canned, cartoned, or securely wrapped.

(h) “Potentially hazardous food” means any food that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacean, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms.

(i) “Ready to eat food” means food that does not require cooking and that will not be cooked before being served.

(j) “Sealed” means free of cracks or other openings that permit the entry or passage of moisture.

(k) “Single-service articles” means those food service articles intended for 1-time, 1-person use and then discarded.

(l) “Tableware” means multi-use eating and drinking utensils.

(m) “Utensil” means any implement used in the storage, preparation, transportation, or service of food.

R 400.8305 Plan review; approval; inspections.

Rule 305. (1) All local health department requirements regarding plan reviews and specifications shall be followed. Written confirmation to the department that this has occurred shall be submitted.

(2) An inspection shall be conducted by the local health department and an approval granted at all of the following:

- (a) Before issuance of an original provisional license.**
- (b) The first regular renewal and at the time of renewal every 4 years thereafter.**
- (c) When requested by the department.**

R 400.8310 Food preparation areas.

Rule 310 (1) Food contact surfaces shall be smooth, nontoxic, easily cleanable, durable, corrosion resistant, and nonabsorbent.

- (2) Carpeting is prohibited in food preparation areas.**
- (3) Mechanical ventilation to the outside is required for all commercial cooking equipment, which includes but is not limited to stoves, ranges, ovens, and griddles.**
- (4) If residential hood ventilation is used, then cooking equipment shall be limited to residential stove and oven equipment.**
- (5) Mechanical ventilation to the outside may be required if a problem is evidenced.**
- (6) The use of deep fryers is prohibited.**
- (7) Live animals shall be prohibited from food preparation and eating areas.**
- (8) When the only food preparation is for feeding infants and toddlers, there shall be a sink that is used exclusively for food preparation and clean up.**

R 400.8315 Food and equipment storage.

Rule 315. (1) Each refrigerator shall have an accurate working thermometer indicating a temperature 41 degrees Fahrenheit or below.

- (2) All artificial lighting fixtures located over, by, or within food storage, preparation, service areas, or where utensils and equipment are cleaned and stored, shall be properly shielded.**
- (3) Unpackaged bulk foods shall be stored in clean covered containers, dated, and labeled as to the contents.**
- (4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it from cross-contamination from food requiring washing or cooking.**
- (5) Packaged food shall not be stored in contact with water or undrained ice.**
- (6) Poisonous or toxic materials shall not be stored with food, food service equipment, utensils, or single-service articles.**
- (7) Food, food service equipment, and utensils shall not be located under exposed or unprotected sewer lines, open stairwells, or other sources of contamination. Automatic fire protection sprinkler heads are the exception.**
- (8) The storage of food, food service equipment, or utensils in toilet rooms is prohibited.**
- (9) Food and utensils shall be stored a minimum of 6 inches above the floor.**
- (10) All food service equipment shall be 6 inches off the floor, moveable, or be properly sealed to the floor.**
- (11) Meals that are transported shall be prepared in commercial kitchens and delivered in carriers approved by the local health department.**

R 400.8320 Food preparation.

Rule 320. (1) Food shall be in sound condition, free from spoilage, filth, or other contamination and be safe for human consumption.

(2) Food shall be prepared on food grade surfaces that have been washed, rinsed, and sanitized.

(3) Raw fruits and vegetables shall be thoroughly washed before being cooked or served.

(4) Staff shall minimize bare-hand contact with foods that will be cooked.

(5) Ready to eat foods shall not be prepared or served using bare hands.

(6) Food shall be cooked to heat all parts of the food to the safe temperature as identified in the 2009 recommendations of the food and drug administration of the United States public health service 3-401, as referenced in the Michigan food law, 2000 PA 92, MCL 289.1107. These recommendations are available at no cost from the FDA at www.fda.gov.

(7) Potentially hazardous foods shall be thawed using 1 of the following methods:

(a) In the refrigerator at a temperature not to exceed 41 degrees Fahrenheit.

(b) Under cold running water.

(c) In a microwave oven for either of the following:

(i) The food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process.

(ii) The entire cooking process takes place in the microwave oven.

(d) As part of the conventional cooking process.

(8) The temperature of potentially hazardous foods shall be 41 degrees Fahrenheit or below or 135 degrees Fahrenheit or above at all times, except during necessary periods of preparation.

(9) Potentially hazardous foods that have been cooked and then refrigerated or frozen shall be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility.

(10) Accurate metal stem-type food thermometers shall be used to assure the attainment and maintenance of proper internal cooking, holding, reheating, or refrigeration temperatures of all potentially hazardous foods.

(11) On field trips, all foods shall be protected from contamination at all times as required by this rule.

(12) In the absence of proper hand washing facilities on field trips, individuals preparing and serving food shall wear sanitary disposable food service gloves.

R 400.8325 Sanitization.

Rule 325. (1) All tableware, utensils, food contact surfaces, and food service equipment shall be thoroughly washed, rinsed, and sanitized after each use. Multi-purpose tables shall be thoroughly washed, rinsed, and sanitized before and after they are used for meals or snacks.

(2) Enamelware utensils are prohibited.

(3) Reuse of single service articles is prohibited.

(4) Multi-use tableware and utensils shall be washed, rinsed, and sanitized using 1 of the following methods:

(a) A commercial dishwasher.

(b) A residential dishwasher with sanitizing capability.

(c) A 3-compartment sink and adequate drain boards.

(d) A 2-compartment sink for washing and rinsing, a third container suitable for complete submersion for sanitizing, and adequate drain boards.

(5) If the manual washing method is used, all of the following shall be done:

(a) Rinse and scrape all utensils and tableware before washing.

- (b) Thoroughly wash in detergent and water.**
- (c) Rinse in clear water.**
- (d) Sanitize using 1 of the following methods:**
 - (i) Immersion for at least 30 seconds in clean, hot water of at least 170 degrees Fahrenheit.**
 - (ii) Immersion for at least 1 minute in a solution containing between 50 and 100 parts per million of chlorine or comparable sanitizing agent at a temperature of at least 75 degrees Fahrenheit. A test kit or other device which measures parts per million concentration of the solution shall be used when a chemical is used for sanitizing.**
- (e) Air dry.**
- (6) Sponges shall not be used in a food service operation.**

R 400.8330 Food services and nutrition generally.

Rule 330. (1) Snacks and meals shall be provided by the center, except when 1 of the following circumstances occurs:

- (a) A majority of the children are in attendance less than 2.5 hours.**
- (b) Food is provided by a parent.**
- (2) A written agreement shall be kept on file at the center if the parent has agreed to provide formula, milk, or food. The center shall provide an adequate amount of formula, milk, or food if the parent does not.**
- (3) Beverages and food shall be appropriate for the child's individual nutritional requirements, developmental stages, and special dietary needs, including cultural preferences.**
- (4) A center shall ensure a child with special dietary needs is provided with snacks and meals in accordance with the child's needs and with the instructions of the child's parent or licensed health care provider.**
- (5) A center shall provide adequate staff so that food service activities do not detract from direct care and supervision of children.**
- (6) A center shall make safe drinking water available throughout the day to children 1 year of age and older.**
- (7) Infants and young toddlers shall be fed on demand.**
- (8) A child shall be served meals and snacks in accordance with the following schedule:**
 - (a) Two and a half hours to 4 hours of operation: a minimum of 1 snack.**
 - (b) Four hours to 6 hours of operation: a minimum of 1 meal and 1 snack.**
 - (c) Seven hours to 10 hours of operation: a minimum of 1 meal and 2 snacks or 2 meals and 1 snack.**
 - (d) Eleven hours or more of operation: a minimum of 2 meals and 2 snacks.**
- (9) A center shall not deprive a child of a snack or meal if the child is in attendance at the time when the snack or meal is served.**
- (10) Menus shall be planned in advance, shall be dated, and shall be posted in a place visible to parents. Food substitutions shall be noted on the menus the day the substitution occurs.**
- (11) A center shall not serve infants and toddlers or allow them to eat foods that may easily cause choking including, but not limited to, popcorn, seeds, nuts, hard candy and uncut round foods such as whole grapes and hot dogs.**
- (12) Cereal shall not be added to a bottle or beverage container without written parental permission.**
- (13) If food, bottles, or beverage containers are warmed, then the warming shall be done in a safe, appropriate manner.**

- (14) Warming bottles and beverage containers in a microwave oven is prohibited.**
- (15) Warmed food, bottles, and beverage containers shall be shaken or stirred to distribute the heat, and the temperature shall be tested before feeding.**
- (16) The contents of a bottle or beverage container shall be discarded if any of the following apply:**
 - (a) The contents appear to be unsanitary.**
 - (b) The bottle or beverage container has been used for feeding for a period that exceeds 1 hour from the beginning of the feeding.**
 - (c) The bottle or beverage container requiring refrigeration has been unrefrigerated for 1 hour or more.**
- (17) Formula and milk, including breast milk, left in a bottle or beverage container after a feeding shall not be reused.**
- (18) Bottle propping is prohibited.**
- (19) When feeding, caregivers shall hold infants except when infants resist being held and are able to hold their bottle.**
- (20) Infants or toddlers shall not have bottles, beverage containers, or food in sleeping equipment.**
- (21) Children shall not have beverage containers or food while they are walking around or playing.**
- (22) Staff shall foster and facilitate toddlers' independence, language, and social interactions by doing all of the following:**
 - (a) Encouraging self-feeding.**
 - (b) Serving appropriate portion sizes.**
 - (c) Sitting and eating with toddlers during meal times.**
- (23) Breastfeeding shall be supported and accommodated.**
- (24) A designated place shall be set aside for mothers who are breastfeeding to use.**

R 400.8335 Food services and nutrition; provided by center.

Rule 335. (1) Food and beverages provided by the center shall be of sufficient quantity and nutritional quality to provide for the dietary needs of each child according to the minimum meal requirements of the child and adult care food program as administered by the Michigan department of education based on 7 C.F.R. Part 226, 1-1-11 edition, of the United States department of agriculture, food and nutrition services, child and adult care food program and is hereby adopted by reference. A copy can be obtained from CACFP at www.michigan.gov/cacfp.

(2) Solid foods shall be introduced to an infant according to the parent's or licensed health care provider's instructions.

(3) Infants shall only be served formula to drink unless written authorization is provided by the child's licensed health care provider.

(4) Children 12 to 23 months of age shall be served whole homogenized Vitamin D-fortified cow's milk, except as provided in R 400.8330(4).

(5) Formula shall be commercially prepared and ready-to-feed.

(6) All fluid milk and fluid milk products shall be pasteurized and meet the grade "A" quality standards.

(7) Milk shall be served from any of the following:

- (a) A commercially filled container stored in a mechanically refrigerated bulk milk dispenser.**
- (b) A commercially filled container not to exceed 1 gallon.**

- (c) A sanitized container only if poured directly from the original container.
- (8) All of the following shall apply to milk:
 - (a) Containers shall be labeled with the date opened.
 - (b) Milk shall be served within 7 days of opening.
 - (c) Milk shall not be served if the contents appear to be unsanitary or have been unrefrigerated for a period exceeding 1 hour.
 - (d) Milk shall not be combined with the contents of other partially filled containers.
- (9) Contents remaining in single-service containers of milk shall be discarded at the end of the snack or meal time.
- (10) All containers of ready-to-feed formula, once opened, shall be labeled with the date and time of opening, refrigerated, and used within 48 hours or discarded.
- (11) Prepared bottles and beverage containers of milk and formula shall be refrigerated and labeled with the child's name, date, and time of preparation.
- (12) Contents of unused bottles of formula shall be discarded, along with any bottle liners, after 48 hours.
- (13) All liners, nipples, formula, milk, and other materials used in bottle preparation shall be prepared, handled, and stored in a sanitary manner.
- (14) Reusable nipples and bottles shall be washed, rinsed, and sanitized before reuse.
- (15) Bottle liners and disposable nipples shall be for single use only, by an individual child, and discarded with any remaining formula or milk after use.
- (16) Commercially packaged baby food shall be served from a dish, not directly from a factory-sealed container, unless the entire container will be served to only 1 child and will be discarded at the end of the feeding period.
- (17) Food, already served and handled by the consumer of the food, may not be served again, unless it is in the original, unopened wrapper.
- (18) Uneaten food that remains on a dish from which a child has been fed shall be discarded.
- (19) Home canned products are prohibited.

R 400.8340 Food services and nutrition; provided by parents.

Rule 340. (1) Breast milk, formula, milk, or other beverages shall be furnished daily for single-day use in clean, sanitary, ready-to-feed bottles or beverage containers.

(2) Breast milk, formula, milk, other beverages, and food furnished for single-day use shall be covered and labeled with the child's first and last name and the date.

(3) Any food or beverages furnished for single-day use shall be returned to the parent at the end of the day or discarded.

(4) Milk, other beverages, and non-perishable food items may be furnished in a multi-day supply in an unopened commercial container.

(5) Milk and other beverages furnished in a multi-day supply shall be labeled with the child's first and last name and the date of opening and shall be returned to the parent or discarded 7 days after opening.

(6) Non-perishable food items furnished in a multi-day supply shall be labeled with the date of opening and when applicable, the first and last name of the child for whom its use is intended.

(7) Beverages and food shall be fed only to the child for whom the item is labeled.

(8) Breast milk, formula, and milk shall be refrigerated until used.

(9) Other perishable beverages and food items shall be refrigerated or otherwise kept at a safe temperature until used.

R 400.8345 Water supply; plumbing.

Rule 345. (1) The water system shall comply with the requirements of the local health department.

(2) Plumbing shall be designed, constructed, installed, and maintained to prevent cross-connection with the water system.

(3) Sinks, lavatories, drinking fountains, and other water outlets shall be supplied with safe water, sufficient in quantity and pressure, to meet conditions of peak demand.

(4) All plumbing fixtures and water and waste pipes shall be properly installed and maintained in good working condition.

(5) Each water heater shall be equipped with a thermostatic temperature control and a pressure relief valve, both of which shall be in good working condition.

R 400.8350 Toilets; hand washing sinks.

Rule 350. (1) The center shall provide toilet and hand washing sinks as follows:

(a) A center operating with children in attendance less than 5 continuous hours a day shall provide at least 1 toilet and 1 hand washing sink for every 20 children or fraction thereof.

(b) A center operating with children in attendance 5 or more continuous hours a day shall provide at least 1 toilet and 1 hand washing sink for every 15 children or fraction thereof.

(2) After December 6, 2006, any center that is new, adds an infant/toddler component, or increases the licensed infant/toddler capacity shall have a diapering area with a readily accessible, designated hand washing sink.

(3) After December 6, 2006, a separate hand washing sink is required in the kitchen for all of the following:

(a) A new center with a food service component.

(b) A center with a food service component that remodels the kitchen.

(c) Any center that adds a food service component.

(4) Hand washing sinks for children shall be accessible to children by platform or installed at children's level.

(5) Hand washing sinks shall have warm running water not to exceed 120 degrees Fahrenheit.

(6) Soap and single service towels or other approved hand drying devices shall be provided.

(7) Toilet rooms for school-age children shall provide for privacy.

R 400.8355 Sewage disposal.

Rule 350. (1) Sewage and other water-carried wastes shall be disposed of through a municipal or private sewer system.

(2) Private sewer/septic systems shall be designed and operated to safely dispose of all wastewater generated, shall be adequate in size for the projected use, and meet the criteria of the local health department.

R 400.8360 Garbage and refuse.

Rule 360. (1) All garbage shall be removed from the center daily.

(2) Garbage containers shall be washed when soiled.

(3) Garbage stored outside shall be in sealed plastic bags in watertight containers with tight-fitting covers or in a covered dumpster.

(4) Outside garbage and refuse shall be picked up or removed at a minimum of once a week.

R 400.8365 Heating; temperature.

Rule 365. (1) The temperature in child use areas shall be maintained at a safe and comfortable level so that children in care do not become overheated or chilled.

(2) The indoor temperature shall be at least 65 degrees Fahrenheit in child use areas at a point 2 feet above the floor.

(3) If temperatures exceed 82 degrees Fahrenheit, then a center shall take measures to cool the children.

R 400.8370 Light, ventilation, and screening.

Rule 370. (1) The total ventilation area in every habitable room, as provided by openable windows, shall be not less than 4½% of the floor area, unless central air conditioning is provided.

(2) If ventilation is dependent on a mechanical system, then the system shall be on at all times while the building is occupied and shall comply with the ventilation requirements of the applicable mechanical code of the authority having jurisdiction.

(3) Artificial light or natural light, or both, shall be capable of providing a minimum illumination of 20 foot candles over the entire room at a height of 3 feet from the floor.

(4) Windows and doors used for ventilation shall be supplied with screening of not less than 16 mesh, which shall be kept in good repair. This subrule does not apply to child care programs operating in school buildings.

R 400.8375 Premises.

Rule 375. (1) The center shall be located on land that provides good natural drainage or that is properly drained.

(2) Stairs, walkways, ramps, landings, and porches shall meet the following requirements:

(a) If elevated, shall have barriers to prevent falls and handrails designed and constructed for use by children.

(b) Shall be maintained in a safe condition relative to the accumulation of water, ice, or snow and shall have nonslip surfacing.

(c) Landings shall be located outside exit doors where steps or stairs are necessary and shall be at least as wide as the swing of the door.

(d) Stairway steps shall be not more than 8 inches in height, with a minimum tread depth of 9 inches.

(e) If ramps are used, then they shall have a minimum rise-to-run ratio of 1-to-12.

R 400.8380 Maintenance of premises.

Rule 380. (1) The premises shall be maintained in a clean and safe condition and shall not pose a threat to health or safety.

(2) The premises shall be maintained so as to eliminate and prevent rodent and insect harborage.

(3) Roofs, exterior walls, doors, skylights, and windows shall be weathertight and watertight and shall be kept in sound condition and good repair.

(4) Floors, interior walls, and ceilings shall be kept in sound condition and good repair and shall be maintained in a clean condition.

(5) There shall be no flaking or deteriorating paint on interior and exterior surfaces or on equipment accessible to children.

(6) All toilet room floor surfaces shall be easily cleanable and shall be constructed and maintained so as to be impervious to water.

(7) Light fixtures, vent covers, wall-mounted fans, and similar equipment attached to walls and ceilings shall be easily cleanable and maintained in good repair.

(8) A lead hazard risk assessment shall be completed by a certified lead risk assessor on all centers built before 1978. Any lead hazards identified shall be addressed as noted in the lead hazard risk assessment report before issuance of the original provisional license. The results of the assessment shall be kept on file at the center. Centers licensed before December 7, 2006 have 3 years from the effective date of these rules to comply with this rule. Centers that operate in a school building serving only school-age children are exempt from the requirements in this rule.

(9) As required by section 8316 of 1994 PA 451, MCL 324.8316, the center shall develop and implement an integrated pest management program when pesticide applications occur on the premises. The integrated pest management program shall include, but not be limited to, the following:

(a) An annual notification to parents or guardians informing them that they will receive advance notice of pesticide applications. The annual notice must be provided in September.

(b) The annual notification to parents or guardians specifying 2 methods by which the advance notice of pesticide application will be given.

(c) An advance notice containing information about the pesticide, including the target pest or purpose, approximate location, date of the application, contact information at the center, and a toll-free number for a national pesticide information center recognized by the Michigan department of agriculture.

(d) Liquid spray or aerosol insecticide applications may not be performed in a room of a center unless the room will be unoccupied by children for not less than 4 hours or longer if required by the pesticide label use directions.

R 400.8385 Poisonous or toxic materials.

Rule 385. Containers of poisonous or toxic materials shall be clearly labeled for easy identification of contents and stored out of reach of children.

FIRE SAFETY PROVISIONS

R 400.8501 Adoption by reference.

Rule 501. The following National Fire Protection Association (NFPA) standards are adopted by reference in these rules. Copies of the adopted standards are available for inspection and may be purchased from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9109, Quincy Massachusetts 02269-9101, internet address www.nfpa.org. The cost of single copies of each standard at the time of the adoption of these rules is indicated after the title.

(i) NFPA-10, Standard for Portable Fire Extinguishers, 2010 edition.....\$38.00

(ii) NFPA-13, Standard for the Installation of Sprinkler Systems, 2010 edition.....	72.00
(iii) NFPA-25, Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems, 2011 edition.....	44.00
(iv) NFPA-72, National Fire Alarm Code and Signaling Code, 2010 edition.....	54.00
(v) NFPA-80, Standard for Fire Doors and Other Opening Protectives, 2010 edition.....	38.00
(vi) NFPA-251, Standard Methods of Tests of Fire Resistance of Building Construction and Materials, 2006 edition.....	34.50
(vii) NFPA-265, Standard Methods of Fire Tests for Evaluating Room Fire Growth Contribution of Textile Coverings on Full Height Panels and Walls, 2002 edition.....	34.00
(viii) NFPA-701, Standard Methods of Fire Tests for Flame Propagation of Textiles and Films, 2010 edition.....	29.00

R 400.8505 Definitions.

Rule 505. As used in this part:

- (a) “Basement” means a story of a building or structure having $\frac{1}{2}$ or more of its clear height below average grade for at least 50% of the perimeter.
- (b) “Combustible” means materials will ignite and burn when subjected to a fire or excessive heat.
- (c) “Conversion” means to alter the use of an existing building or room to a center.
- (d) “Existing building” means a structure or part of a structure not currently used as a center.
- (e) “Existing licensed center” means a center that was licensed before December 7, 2006 and whose license continues uninterrupted.
- (f) “Exit” means a way of departure from the interior of a building or structure to the open air outside at ground level.
- (g) “Fire alarm” means a device used to alert the occupants of the building of fire or smoke conditions. The device shall be audible in all parts of the building used as a center.
- (h) “Fire alarm system” means an approved electrical closed circuit, self-supervised local system for sounding an alarm. The system is comprised of a central panel, manual pull stations near all outside exits, audible electric signal devices, and where warranted, a remote trouble annunciator. All system components shall be listed by a nationally recognized testing laboratory and installed in accordance with NFPA-72.
- (i) “Fire door assembly” means a side-hinged, labeled fire door and labeled frame constructed and installed in compliance with NFPA-80.
- (j) “Fire-resistance rating” means the time for an element in a building to maintain its particular fire resistance properties in accordance with NFPA-251.
- (k) “Fire-resistive construction” means a building having walls, ceilings, floors, partitions, and roof of non-combustible materials having a minimum fire-resistance rating of 1 hour. This subdivision shall not be construed as prohibiting finished wood floors, doors, and windows with assorted frames and trim.
- (l) “Flameproof materials” means materials that will not propagate flame under the test conditions of NFPA-701. Flameproof materials are usually combustible materials with the addition of some treatment or coating to modify their burning properties.
- (m) “Flammable” means materials capable of being readily ignitable from common sources of heat or at a temperature of 600 degrees Fahrenheit, 316 degrees Celsius, or less.

(n) “Hazard area” means those parts of a center building housing a commercial kitchen, heating plant, fire-fueled water heater, incinerator, or an area posing a higher degree of hazard than the general occupancy of the building.

(o) “Heating plant room” means a room or area housing fuel-fired equipment.

(p) “Interior finish” means the exposed interior surface materials of walls, fixed or movable partitions, and ceilings. This includes drywall, masonry, or wood substructure and surfacing materials such as paneling, tile, or other interior finish material and any surfacing materials, such as paint or wallpaper, applied thereto. Interior finish includes materials affixed to the building structure as distinguished from decorations or furnishings.

(q) “Means of egress” means a minimum of 36 inch wide continuous and unobstructed path of exit travel from any point in a building to the outside at grade.

(r) “New construction” means a created structure, addition, replacement, or alteration of structural components, such as walls.

(s) “Noncombustible” means materials that will not ignite and burn when subjected to fire.

(t) “Protected ordinary construction” means all of the following types of construction:

(i) Roofs and floors and their supports having a minimum of 1-hour fire-resistance rating.

(ii) Exterior bearing walls or bearing portions of exterior walls are of noncombustible or limited combustible materials and have a minimum of 1-hour fire-resistance rating and stability under fire conditions.

(iii) Nonbearing exterior walls are of noncombustible or limited combustible materials.

(iv) Roofs, floors, and interior framing are wholly or partly made of wood of smaller dimension than required for heavy timber construction.

(u) “Standard partition construction” means a substantial smoke-tight assembly consisting of walls, in conjunction with ceilings at which they terminate, that are covered on both sides with minimum standard lath and plaster or ½-inch drywall over 2”x 4” studs. Doorways in these walls are protected with minimum 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors and equipped with approved self-closing devices and positive latching hardware. One or more glass panes are permitted in these walls and/or doors if each individual glass panel is fixed pane and not larger than 1,296 square inches of ¼-inch wired glass with no linear dimension longer than 54 inches or fire-rated safety glass, of any size, listed with a minimum fire rating of 45 minutes and installed as listed. In some cases, drywall or plaster is also necessary to protect the underside of stairs.

(v) “Textile material” means having a napped, tufted, looped, woven, non-woven or similar surface.

(w) “Wired glass” means glass not less than 1/4-inch thick, reinforced with wire mesh, number 24 gauge or heavier, with spacing not greater than 1 square inch.

(x) “Wood frame construction” means that type of construction in which exterior walls, bearing walls and partitions, and floor and roof constructions and their supports are made of wood or other combustible material.

R 400.8510 Plans and specifications; submission; approval; inspections.

Rule 5010. (1) A complete set of plans and specifications of any proposed center or proposed addition, alteration, or remodeling to an existing center shall be submitted to the department for review and approval.

(2) Written approval shall be obtained from the department before initiating any construction.

(3) Plans shall bear the seal of a registered architect or engineer when the total cost of the project is \$15,000.00 or more, including labor and materials.

(4) A fire safety inspection shall be conducted by the bureau of fire services or a department-approved qualified fire inspector and an approval granted before issuance of the original provisional license and every 4 years thereafter, at the time of renewal.

(5) If a boiler is used, then it shall be inspected and a certificate provided, as required, by the boiler division, department of licensing and regulatory affairs.

(6) Fuel-fired furnaces shall be inspected before issuance of an original provisional license and every 2 years at renewal by a mechanical contractor licensed by the state of Michigan.

(7) Fuel-fired water heaters shall be inspected before issuance of an original provisional license and every 2 years at renewal by either a mechanical contractor or a plumbing contractor licensed by the state of Michigan.

(8) New furnace and water heater installations shall be either of the following:

(a) Inspected and approved by the department of licensing and regulatory affairs or local mechanical inspecting authorities at the time of installation.

(b) Inspected and approved by a qualified fire safety inspector or the bureau of fire services to ensure continued compliance with appropriate fire safety provisions of these rules.

R 400.8515 Construction.

Rule 515. (1) If child occupancy is limited to the first or main floor, then the building may be of wood frame construction.

(2) If child occupancy is on the second floor, then all of the following are required:

(a) The building be of protected ordinary construction.

(b) All required stairways and vertical openings be enclosed by walls, in conjunction with openings therein, and ceilings at which they terminate that meet the requirements of standard partition construction to provide a protected means of egress to the outside with proper termination to grade.

(c) All door openings contained in subdivision (b) of this subrule meet all of the following requirements:

(i) Be protected with 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors.

(ii) Be installed in fully stopped smoke-tight, substantial frames.

(iii) Be equipped with approved self-closing devices and non-locking-against-egress positive latching hardware.

(3) If child occupancy is above the second floor, then both of the following shall be required:

(a) The building shall be of 1-hour fire-resistive construction.

(b) All required stairways and other vertical openings be enclosed by a minimum 1-hour fire-resistive construction to provide a protected means of egress to the outside with proper termination to grade.

(4) If any portion of a basement is used for more than 30 children, then 1 of the following provisions shall be required:

(a) Two enclosed stairways of 1-hour fire-resistant construction shall discharge directly to the outside with proper termination to grade, and all openings in the stairways shall be protected by a minimum of 1-hour or “B” labeled fire doors and frame assemblies.

(b) One approved exit from the occupied room or use area shall discharge directly to the outside with proper termination to grade. Travel distance from any point in this room or area to this exit shall be less than 50 feet.

- (c) Two exits comprised of any combination of subdivisions (a) and (b) of this subrule.
- (5) If basement occupancy is limited to not more than 30 children, then the following shall apply:
 - (a) One of the exits required by subrule (4) of this rule shall discharge directly to the outside with proper termination to grade or through a 1-hour fire-resistive enclosure.
 - (b) The second exit may terminate at the first floor level with an approved floor separation, meeting the requirements of standard partition construction, between the basement and the first floor.
 - (c) For new construction and conversions, the separation shall be located at the first floor with travel distance from the door to an approved exit not exceeding 100 feet.
- (6) All vertical openings and stairways that are not required shall be constructed and arranged with effective fire and smoke separation under the requirements of standard partition construction. All door openings shall be as follows:
 - (a) Protected with 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors.
 - (b) Installed in fully stopped smoke-tight substantial frames.
 - (c) Equipped with approved self-closing devices and non-locking-against-egress positive latching hardware.

R 400.8520 Interior finishes.

Rule 520. (1) The classifications of interior finishes for flame spread and smoke development in Table 1 shall be used as follows:

TABLE 1
FLAME SPREAD AND SMOKE DEVELOPMENT FOR INTERIOR FINISHES

Class	Flame Spread	Smoke Developed
A OR I	0-25	0-450
B OR II	26-75	0-450
C OR III	76-200	0-450

- (2) Basic materials in a means of egress and basement use occupancies shall be class A or I or B or II.
- (3) Basic materials in all other areas shall be class C or III.
- (4) Interior finish material more hazardous than class C or III shall be prohibited in child use areas.
- (5) If an approved automatic sprinkler system is installed and maintained in accordance with NFPA-13 and NFPA-25, then class C or III interior wall and ceiling finish materials shall be permitted in any location where class B or II is required and class B or II interior wall and ceiling finish materials shall be permitted in any location where class A or I is required.
- (6) In an existing licensed center or conversion, existing interior finishes which do not comply with the classifications in subrule (1) of this rule may have their surfaces protected with an approved fire-retardant coating to meet the classifications for interior finishes. The coatings shall be applied to interior finishes that are attached to, or furred out not more than 1 inch from a noncombustible backing and applied according to manufacturer's recommendations. Documentation shall be provided as required by the department.
- (7) Interior finish materials of classes B or II and C or III which are less than 1/4 inch in thickness shall be applied directly against a noncombustible backing or shall be furred out not

more than 1 inch unless the tests under which such material has been classed were made without a backer.

(8) Centers licensed before December 7, 2006 may retain previously approved fire retardant coated interior finishes.

(9) Textile materials having a class A or I rating and used as an interior finish shall be permitted as follows:

(a) On walls or ceilings of rooms or areas protected by an automatic sprinkler system approved by the department.

(b) On room partitions that are less than $\frac{3}{4}$ of the floor-to-ceiling height not to exceed 8 feet in height.

(c) To extend up to 4 feet above the finished floor on ceiling-height walls and ceiling-height partitions.

(d) Textile materials shall be permitted on walls and partitions where tested in accordance with and meeting the standards of NFPA-265. If compliance is achieved by application of a flame-proofing product in accordance with NFPA-701, documentation shall be provided as required by the department.

(10) Drapery material may be used for stage curtains, room dividers, and similar uses if the material has been tested and approved in accordance with NFPA-701.

(11) Drapery material applied to surfaces of a facility as an interior finish shall meet the requirements of subrule (9) of this rule.

(12) All vinyl and wooden wall dividers shall meet the interior finish requirements of subrules (1), (2), and (3) of this rule, as applicable.

(13) Bulletin boards shall meet the interior finish requirements of subrules (2) and (3) of this rule.

(14) Combustible materials and decorations may be displayed on walls, not to exceed 20% of a wall space. Combustible materials and decorations suspended from or near the ceiling are prohibited.

R 400.8525 Exits.

Rule 525. (1) Except as referenced in R 400.8515(4)(b) and 400.8525(2)(c), each occupied floor shall have not less than 2 approved exits directly to the outside with proper termination to grade, remote from each other by 50% of the longest dimension of the floor or area served, and occupied rooms within the center shall be located between means of egress, unless a first floor, self-contained, occupied room has an approved exit direct to the outside with proper termination to grade with a maximum travel distance of 50 feet from the most remote point in the room to the exit.

(2) Travel distance to an exit shall be as follows:

(a) For infants and young toddlers, travel shall be 50 feet or less from the door of the occupied room to the exit.

(b) For older toddlers, preschoolers and school-agers, travel shall be 100 feet or less from the door of the occupied room to the exit.

(c) Buildings having complete automatic sprinkler protection may increase their travel distances by 50 feet.

(d) Those areas approved before July 1, 2000 are exempt from the requirements of this rule.

- (3) For all centers initially licensed after December 6, 2006, programs with infants and young toddlers shall have exits with proper termination and within 30 inches of grade or exits properly ramped to grade.
- (4) Exit doors and all doors in the means of egress shall be side-hinged and equipped with knob; lever-type, non-locking-against-egress; or panic-type hardware.
- (5) Exit doors and doors in rooms occupied by 21 or more children shall swing in the direction of egress.
- (6) Means of egress shall be maintained in an unobstructed, easily traveled condition at all times that the center is in operation. Means of egress shall not be exposed to inherent hazards of the building, including the heating plant, flammable storage, commercial kitchen, or other similar conditions.
- (7) In new construction, additions, remodeling, and conversions, there shall be a floor or landing on each side of an exit door. The floor or landing shall be at the same elevation on each side of the door except for variations in elevation due to differences in finish materials, which shall not exceed $\frac{1}{2}$ inch.
- (8) In conversions, landings shall have a width not less than the width of the stairway or the width of the door, whichever is greater. Landings shall have a length not less than the width of the door.
- (9) In new construction, additions, and remodeling, landings shall comply with the latch-side clearance requirements of sections 404.2.3 through 404.2.3.5 of the international code council/American national standards institute standard A117.1 (ICC/ANSI A117.1), 2003, accessible and usable buildings and facilities. Sections 404.2.3 through 404.2.3.5 of ICC/ANSI A117.1 are hereby adopted by reference. Copies of the adopted matter may be purchased from the international code council at www.iccsafe.org or 1-800-786-4452.
- (10) For new construction, additions and remodeling, an exit door shall be not less than 36 inches in width. Doors to multiple-use bathrooms shall not be less than 32 in width.
- (11) For the conversion of an existing building, exterior exit doors shall be not less than 36 inches in width. Other use room doors shall be not less than 28 inches in width. Single-use toilet room doors shall not be less than 24 inches in width. Any remodeled door openings, other than door swing, shall comply with subrule (10) of these rules.
- (12) Centers licensed before December 7, 2006 may retain previously approved door widths.
- (13) Exterior exits shall be marked or denoted by an approved exit sign. All exit signs shall be distinctive in color and shall provide contrast with decorations, interior finish, or other signs. Each exit sign shall have the word “exit” in plain, legible letters not less than 6 inches high on a background of contrasting color with strokes not less than $\frac{3}{4}$ -inch wide.
- (14) When nighttime care is provided, the center shall have exits with proper termination and within 30 inches of grade or exits properly ramped to grade.
- (15) When nighttime care is provided, exit signs shall be illuminated and emergency lighting provided at exits.

R 400.8530 Hazard Areas.

Rule 530. (1) Hazard areas shall be separated from the parts of the building used as a center in the following manner:

- (a) In centers licensed before June 4, 1980, areas used for the storage of combustibles and other hazard areas will continue to be approved if they are enclosed with a minimum $\frac{3}{4}$ -hour fire resistive construction and doorways to the areas are protected with a minimum $1\frac{3}{4}$ -inch flush

solid core wood or 20-minute labeled fire-rated doors equipped with approved self-closing devices and positive latching hardware.

(b) In centers licensed before July 1, 2000, the following shall apply:

(i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1-hour fire resistance rating, openings in the separation shall be protected with a minimum of 1-hour or “B” labeled fire door and frame assembly, including an approved self-closing device and positive latching hardware.

(ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum ¾-hour fire resistance rating, all door openings shall be protected by minimum 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors hung in substantial frames and equipped with approved self-closing devices and positive latching hardware.

(c) In centers licensed after July 1, 2000, all of the following shall apply:

(i) Where the area used for the storage of combustibles exceeds 100 square feet, by construction having a minimum 1-hour fire resistance rating, openings in the separation shall be protected with a minimum of 1-hour or “B” labeled fire door and frame assembly, including an approved self-closing device and positive latching hardware.

(ii) Where the area used for the storage of combustibles does not exceed 100 square feet, by construction having a minimum 1-hour fire resistance rating. All door openings shall be protected by minimum 1¾ inch flush solid core wood doors or 20-minute labeled fire-rated doors in substantial frames and equipped with approved self-closing devices and positive latching hardware.

(2) Where a kitchen with commercial cooking equipment exposes a required means of egress or child use area, it shall be separated from the remainder of the building with minimum 1-hour fire resistive construction including a minimum of 1-hour or “B” labeled fire door and frame assemblies in all common openings. Kitchens having commercial cooking equipment protected by an approved automatic kitchen hood suppression system are exempt from this requirement.

(3) The use of an incinerator is prohibited.

(4) Heating shall be by a central heating plant or an approved permanently installed electrical heating system. If heating is provided by a central heating plant and located on the same floor that is used for child occupancy, it shall be installed in an enclosure providing not less than a 1-hour fire-resistive separation, including a minimum of 1-hour or “B” labeled fire door and frame assembly equipped with an approved self-closing device and positive latching hardware in any interior door opening. Door openings for heat plant enclosures not located on the same floor that is used for child occupancy may have 1¾-inch flush solid wood core doors or 20-minute labeled fire-rated doors having positive latching hardware and an approved self-closing device. Air for proper combustion, a minimum of 1 square inch per 4,000 BTUs input, shall be provided directly from the outside through a permanently opened louver or metal duct.

(5) In centers licensed before December 7, 2006, a properly installed heating plant located in a basement which is not used for child occupancy does not require additional protection where there is a qualified fire separation and with at least a 1¾-inch flush solid core wood doors or 20-minute labeled fire-rated doors hung in a substantial frame and equipped with an approved self-closing device and positive latching hardware in all stairway openings.

(6) Any fuel-fired water heater or other similar equipment shall be located according to subrule (4) or (5) of this rule, as applicable.

(7) Where electric heating is used, it shall be underwriters' laboratories, inc. listed, permanent, fixed-type electrical heating such as recognized panel or baseboard fixed-type. Electric heating which complies with this requirement may be installed in any location.

(8) Auxiliary heating units, such as portable combustion or electrical types, are prohibited.

(9) The center shall not store flammable materials, including fuels, pressurized cans, cleaning fluids and supplies, polishes, and matches, in heat plant enclosures. These items may be stored outside of child use areas in metal cabinets or storage facilities accessible only to authorized personnel.

(10) The center shall not store combustible materials within the central heating plant or fuel-fired water heater rooms or in basements containing fuel-fired heating equipment, without a proper fire separation.

(11) The center shall not permit flammable gases, gasoline, or gasoline-powered equipment in the part of a building which is used as a center or in other parts of the building from which there is a door, window, or other opening into the center, unless that part of the building is separated from the remainder of the building by minimum 2-hour fire resistive construction.

(12) If commercial-type laundry equipment is installed, then the equipment shall be enclosed to provide a 1-hour resistance to fire, including a minimum of 1-hour or "B" labeled fire door and frame assembly in an interior door opening which would expose the center.

(13) Dryer vents shall be metal and vented completely to the exterior.

(14) Fire dampers shall not be required in $\frac{3}{4}$ -hour and 1-hour fire-resistive enclosures.

(15) All appliances and equipment in the center shall be installed and maintained in accordance with their manufacturer's specifications.

(16) Centers shall be kept free of all conditions that constitute fire safety hazards.

R 400.8535 Fire alarm.

Rule 535. (1) In any building used as a center, an approved fire alarm, either electrical or manual, shall be established.

(2) In centers of more than 4 child-occupied rooms, excluding bathrooms, or in centers licensed for more than 60 children, an approved fire alarm system shall be installed and maintained in compliance with NFPA-72.

(3) In new construction, conversions, remodeling, or newly licensed centers, the trouble signal for required fire alarm systems shall be located in an area normally occupied by child care staff.

R 400.8540 Smoke detectors; carbon monoxide detectors.

Rule 540. (1) After July 1, 2000, newly constructed centers, additions, and conversions shall at a minimum be equipped with approved single station smoke detectors covering all use areas and their means of egress. These smoke detectors shall be located and spaced according to NFPA-72.

(2) Centers with any fuel-fired heating systems shall have a carbon monoxide detector, listed by a nationally recognized testing laboratory, on all levels approved for child care and in each use area covered by a different furnace zone.

(3) Centers shall properly install and maintain all detectors in operable condition in accordance with manufacturer's recommendations.

R 400.8545 Fire extinguishers.

Rule 545. (1) Multipurpose fire extinguishers, having ratings of not less than 2A-10BC, shall be installed in or adjacent to the kitchen or cooking area and in or adjacent to the door of the heating plant room.

(2) The requirement of having additional multipurpose fire extinguishers with ratings of not less than 2A-10BC shall be determined by the department or a department-approved qualified fire inspector and shall be based on the capacity of the center and on other conditions in the facility.

(3) Fire extinguishers shall be properly mounted, inspected, and maintained in accordance with NFPA-10. The fire extinguisher shall bear a tag indicating the last date of inspection or service and the initials of the person who performed the inspection or service.

R 400.8550 Electrical service.

Rule 550. (1) The electrical service shall be maintained in a safe condition.

(2) For new construction and additions, electrical systems and service shall be inspected and approved by the electrical inspecting authority having jurisdiction. A copy of the certificate of approval shall be maintained at the center at all times.

(3) When warranted, conversions of existing buildings and existing rooms to child care use, as well as existing licensed centers, may require an electrical inspection.

(4) Extension cords, listed by a nationally recognized testing laboratory, and used in accordance with all manufacturer's recommendations, may be used on a temporary basis, and for short periods of time.

(5) All electrical outlets in child use areas for children who are not yet school-age shall be made inaccessible to children.

(6) All electrical outlets in approved child use space located within 6 feet of a sink or other water source shall be protected by a ground-fault circuit interrupter (GFCI).

(7) Power strips shall be equipped with surge protectors and shall not be longer than 6 feet or be connected to another power strip.

R 400.8555 Open-flame devices; candles.

Rule 555. All open-flame devices, candles, and incense are prohibited, except for religious celebrations.

R 400.8560 Multiple occupancy.

Rule 560. (1) Multiple occupancy of a building may qualify for licensure if the entire building does not present a life safety hazard. A center currently licensed in such a building may continue as long as such occupancies do not change in character.

(2) A building, part of which is used for hazardous operations or for occupancy that is unpredictable, such as taverns, garages, repair shops, and industrial operations, shall not be permitted for center use. However, an exception may be made for a vocational education center approved by the department of licensing and regulatory affairs.

R 400.8565 Fire safety; exemptions for public and nonpublic school buildings.

Rule 565. The rules with respect to fire prevention and fire safety shall not apply to a center established and operated by an intermediate school board, the board of a local school district, or

by the board or governing body of a state-approved nonpublic school, or by a person or entity with whom a school contracts for services, if the center is located in a school building that is approved by the state fire marshal or other similar authority for school purposes.

TRANSPORTATION PROVISIONS

R 400.8701. Definitions.

Rule 701. As used in this part:

(a) “Child passenger restraint device” means a device that is used to restrain a child weighing less than 65 pounds that meets the requirements of federal motor vehicle safety standard no. 213, child seating systems, 49 C.F.R. §571, revised 10-1-2002, and is hereby adopted by reference. Copies of the adopted matter may be obtained at no cost from the United States department of transportation at www.nhtsa.dot.gov/cars/rules.

(b) “Manufacturer’s rated seating capacity” means the number of places or spaces provided by the manufacturer of a vehicle for the driver and passengers to sit while the vehicle is in motion.

(c) “Motor vehicle” means a self-propelled device in which persons are or may be transported upon a highway, which is built on an automobile or truck chassis, which is specifically designed by the manufacturer to transport passengers, or specially modified to transport handicapped passengers, and which meets the safety equipment requirements of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to 257.714b.

(d) “Multifunction school activity bus” means a vehicle rated for 11 or more passengers, including the driver, built after September 2, 2003 to school bus specifications defined in the federal motor vehicle safety standards.

(e) “Safety belt” means an automobile lap belt or lap-shoulder belt combination designed to restrain and protect a passenger or driver of a vehicle from injury.

(f) “School transportation” means transportation by a public, non-public, or private school.

(g) “Transportation” means the conveyance of children by means of a motor vehicle to or from a center and to and from all activities planned for children by or through the center.

(h) “Volunteer motor vehicle” means a motor vehicle not owned by, leased by, or registered to the center or principle or employee of the center.

R 400.8710 Transportation.

Rule 710. (1) If transportation other than public transportation or school transportation is provided, contracted, or sponsored by the center, all rules in this part apply.

(2) If public transportation or school transportation is used, then only R 400.8760, 400.8770, and 400.8149 apply.

(3) If a parent makes a private arrangement for the transportation of his or her child, not including arrangements made with the center, the rules in this part do not apply.

R 400.8720 All motor vehicles.

Rule 720. (1) All motor vehicles shall be in safe operating condition.

(2) All motor vehicles, except multifunction school activity buses and school buses inspected by the department of state police as indicated in subrule (3) of this rule, shall be inspected annually

by a licensed mechanic. A copy of the inspection shall be kept on file at the center. Volunteer vehicles are not required to be inspected.

(3) Centers that use multifunction school activity buses and school buses to transport children to and from school shall do all of the following:

(a) Contact the department of state police to determine if an annual inspection by the department of state police is required under section 39 of the pupil transportation act, 1990 PA 187, MCL 257.1839.

(b) If directed by the department of state police, obtain an annual inspection by the department of state police. A copy of the inspection shall be kept on file at the center.

(4) A statement verifying that all motor vehicles, including volunteer vehicles, are in compliance with Michigan vehicle code safety equipment requirements, as defined in 1940 PA 300, MCL 257.683 to 257.714b, shall be kept on file at the center.

(5) The use of passenger vans with a rated seating capacity of 11 or more, including volunteer vehicles, is prohibited.

(6) Multifunction school activity buses used for transporting children to and from school shall comply with all minimum safety specifications, except color, identification, and alternating flashing lights, as defined in 1990 PA 187, MCL 257.1801 to MCL 257.1877.

(6) Motor vehicle seats used by children, staff, and volunteers shall not face sideways.

(7) A truck shall not be used to transport children, except in the cab.

(8) There shall be no loose or heavy objects in the passenger compartment of any motor vehicle.

R 400.8730 Safety equipment in motor vehicles.

Rule 730. (1) All motor vehicles used to transport children shall carry the following safety equipment:

(a) Three bidirectional emergency reflective triangles properly cased and securely stored in the motor vehicle.

(b) A first aid kit shall be securely stored in an accessible location in the driver compartment.

(2) Any motor vehicle with a manufacturer's rated seating capacity of more than 10 occupants used to transport children shall carry the following additional safety equipment:

(a) Not less than 3 15-minute fusees (flares) or an approved battery operated substitute properly cased and securely stored in the driver's compartment.

(b) Fire extinguisher rated not less than 2A-10BC mounted in an accessible place in the driver's compartment. The fire extinguisher shall be inspected and maintained in accordance with NFPA-10. The fire extinguisher shall bear a tag indicating the last date of inspection or service and the initials of the person who performed the inspection or service.

(3) Volunteer motor vehicles are exempt from subrule (1)(a) of this rule.

R 400.8740 Manufacturer's rated seating capacity; restraint devices; safety belts.

Rule 740. (1) Each child transported shall be seated according to the manufacturer's rated seating capacity and properly restrained by a passenger restraint device as required by sections 710d and 710e of 1949 PA 300, MCL 257.710d(1) and 257.710e(3) and (4).

(2) Passenger restraint devices, as required by subrule (1) of this rule, are not required for children transported on a school bus or a multifunction school activity bus.

(3) Each restraint device shall be properly anchored to the vehicle seat and used according to the manufacturer's specifications. Allowing 2 or more children to share a seat belt or restraint device is prohibited.

(4) The driver of a motor vehicle and all adult passengers shall be seated according to the manufacturer's rated seating capacity and properly restrained by safety belts when the motor vehicle is in motion.

(5) All safety belts and restraint devices used while transporting children and adults shall be in good working condition.

R 400.8750 Motor vehicle operator.

Rule 750. (1) The driver of any motor vehicle transporting children shall comply with all of the following:

- (a) Be at least 18 years of age.
 - (b) Possess a valid operator or chauffeur's license with the appropriate endorsement as required by 1949 PA 300, MCL 257.301 to 257.329.
 - (c) Have a personal driving record with not more than 6 active points as determined by the secretary of state.
 - (d) Have proof of valid automobile insurance and registration.
 - (e) Be familiar with the contents of the first aid kit.
 - (f) Be familiar with the operation of the fire extinguisher, if a fire extinguisher is required.
- (2) The following documents shall be kept on file at the center:
- (a) A copy of each driver's driving record, except for drivers of volunteer motor vehicles, obtained from the secretary of state at least once a year.
 - (b) A self-certifying statement that all volunteer drivers comply with subrule (1) of this rule.
 - (c) A copy of a valid operator license.
- (3) Drivers shall be provided with a copy of the child information card or comparable substitute for each child being transported in their motor vehicles.

R 400.8760 Staff/volunteer-to-child ratio and supervision in transit.

Rule 760. (1) The ratio of staff/volunteers to children in transit, including children related to the staff member/volunteer, licensee, or driver, shall be based on the following provisions:

- (a) For infants and young toddlers, there shall be 1 staff member/volunteer for 4 children. The driver shall not count in the staff/volunteer to child ratio.
- (b) For older toddlers, there shall be 1 staff member/volunteer for 8 children. The driver shall not count in the staff/volunteer to child ratio.
- (c) For 3-year-olds, there shall be 1 staff member/volunteer for 10 children. The driver may count in the staff/volunteer to child ratio.
- (d) For 4-year-olds, there shall be 1 staff member/volunteer for 12 children. The driver may count in the staff/volunteer to child ratio.
- (e) For school-agers, there shall be 1 staff member/volunteer for 18 children. The driver may count in the staff/volunteer to child ratio. This requirement does not apply when school-age children are transported to and from school on school transportation or are using public transportation.
- (f) An additional staff member/volunteer is not required if only 1 child under 36 months of age is transported.

(2) To count in the staff member/volunteer to child ratios, staff members or volunteers shall be all of the following:

- (a) At least 16 years of age.**
- (b) Seated with the children.**
- (c) Responsible for the supervision of the children.**

(3) When children are entering or leaving the motor vehicle, the following safety precautions shall be taken:

(a) The accompanying staff member, volunteer, or driver shall assure that the children are received by a staff member, parent, or other person as designated by the parent.

(b) Children shall enter and leave the motor vehicle from the curbside unless the vehicle is in a protected parking area or driveway.

(4) Children shall not be left unattended in a motor vehicle.

(5) When children under school-age are entering or leaving the motor vehicle, the children shall be carried or helped into and out of the motor vehicle.

R 400.8770 Time limitation on child transit.

Rule 770. For children under school-age, transportation routes shall be planned so that a child is not in the motor vehicle longer than 1 continuous hour.

SWIMMING PROVISIONS

R 400.8801 Definitions.

Rule 801. (1) As used in this part:

(a) “Lifeguard” means a person who meets the following criteria:

(i) Possesses an appropriate and current life guard training and certification by Red Cross, YWCA, YMCA, or equivalent in 1 of the following:

(A) Basic lifeguard for pool only.

(B) Full life guarding for pool and all other water activities.

(ii) Is dressed suitably to act in an emergency.

(iii) Is providing constant supervision.

(b) “Public swimming pool” means an artificial body of water used collectively by a number of individuals primarily for the purpose of swimming, wading, recreation, or instruction and includes related equipment, structures, areas, and enclosures intended for the use of individuals using or operating the swimming pool such as equipment, dressing, locker, shower, and toilet rooms. Public swimming pools include those which are for parks, schools, motels, camps, resorts, apartments, clubs, hotels, mobile home parks, subdivisions, and the like. A pool or portable pool located on the same premises with a 1-, 2-, 3-, or 4-family dwelling and for the benefit of the occupants and their guests, a natural bathing area such as a stream, lake, river, or man-made lake, an exhibitor’s swimming pool built as a model at the site of the seller and in which swimming by the public is not permitted, or a pool serving not more than 4 motel units is not a public swimming pool.

R 400.8810 Swimming caregiver-to-child ratio.

Rule 810. (1) Written parental permission regarding their child's participation in swimming activities shall be kept on file at the center.

(2) A lifeguard shall be on duty at all swimming activities and shall not be included in the caregiver-to-child ratio.

(3) For children under 3 years of age, there shall be an in-the-water ratio of 1 caregiver to 1 child.

(4) For all nonswimmers 3 years of age and older, there shall be an in-the-water ratio of 1 caregiver to 4 children when the water level is at the child's chest height or lower. When the water level is above the child's chest height, there shall be an in-the-water ratio of 1 caregiver to 1 child.

(5) For swimmers 3 years of age and older, there shall be an in-the-water ratio of caregivers to children as required by R 400.8182(3).

R 400.8820 Swimming activity supervision.

Rule 820 (1) All caregiving staff counted in the caregiver-to-child ratio shall be both of the following:

- (a) Actively engaged in providing direct care, supervision, and guidance.**
- (b) Physically able to assist children quickly.**

R 400.8830 Instructional swim.

Rule 830. (1) Instructional swim shall be conducted under the supervision of a qualified water safety instructor (WSI), in an organization such as the YMCA or YWCA, and where instructional swim is part of the organized program.

(2) The ratio of caregivers to children under R 400.8182(3) shall be maintained. The instructor shall not be included in the ratio.

R 400.8840 Swimming activity area.

Rule 840. (1) All swimming areas shall be maintained in a clean and safe condition.

(2) A public pool used for swimming shall be inspected by the local health department and issued a license by the department of environmental quality.

(3) The water at a public or private beach shall not be used if deemed unsafe by the local health department.

(4) A working telephone shall be accessible on the premises.

(5) All of the following safety equipment shall be readily accessible:

- (a) First aid kit.**
- (b) Rescue pole or throwing rope and ring buoy.**
- (c) Signaling device.**
- (6) The use of hot tubs and private wading pools is prohibited.**

NOTICE OF PUBLIC HEARING

DEPARTMENT OF HUMAN SERVICES
BUREAU OF CHILDREN AND ADULT LICENSING
Child Care Licensing Rules
Rule Set 2010-045 DH

NOTICE OF PUBLIC HEARING

The Department of Human Services will hold public hearings to receive public comments on proposed changes to Child Care Center Licensing Rules.

February 12, 2013 • 12:30 P.M. – 3:00 P.M.
Room 223, Wayne RESA
33500 Van Born Rd, Wayne, MI 48184

February 13, 2013 • 10:30 A.M. – 1:00 P.M.
Room F010, F-Wing, Delta College
1961 Delta Road, University Center, MI 48710

February 14, 2013 • 1:30 P.M. – 4:00 P.M.
Nicolet Room, University Center, Northern Michigan University
1401 Presque Isle Avenue, Marquette, MI 49855

The proposed rules modify a number of rules to be consistent with current statutory requirements, standards and practices. Staff and volunteer responsibilities, professional development requirements, hand washing, information provided to parents, emergency procedures, indoor and outdoor play areas, and program rules are revised. Requirements for environmental health inspections and lead inspections are clarified. The entire rule set is reorganized. This involved re-codifying (rescinding) existing rules and replacing them with new rule numbers so that each rule falls within a more logical and sequential order. Comments on the rules may be made in person at the hearing or by mail, fax or electronic mail until 5 p.m. on February 15, 2013.

These rules are promulgated by authority conferred on the DHS by Section 2 of 1973 PA 116, and Executive Reorganization Order Nos. 1996-1, 1996-2, 2003-1, and 2004-4, MCL 722.112, 330.3101, 45.2011, and 400.226.

The rules (Rule Set 2010-045 HS) are published on the Michigan Government web site at <http://www.michigan.gov/LARA> and in the *Michigan Register* in the February 1, 2013 issue. Copies of the draft rules may also be obtained by mail or electronic transmission at the following address:

Public Comment
Department of Human Services
Bureau of Children and Adult Licensing
P.O. Box 30650
Lansing, MI 48909-8150
Fax: 517-335-6121

E-mail: BCAL-CenterRulesPubComment@michigan.gov

The public hearings will be conducted in compliance with the 1990 Americans with Disabilities Act, in an accessible building with handicap parking available. Anyone needing assistance to take part in the hearings can call 517-335-6124 to make arrangements.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~ENERGY, LABOR, AND ECONOMIC GROWTH~~ LICENSING AND
REGULATORY AFFAIRS**

DIRECTOR'S OFFICE

CONSTRUCTION CODE

Filed with the Secretary of State on

These rules take effect 30 days after filing with Secretary of State

(By authority conferred on the director of the department of ~~energy, labor, and economic growth~~ **licensing and regulatory affairs** by section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4, **and 2011-4**, MCL 445.2011, 445.2025, and **445.2030**)

R 408.30801, R 408.30806, R 408.30808, R 408.30810, R 408.30811, R 408.30812, R 408.30815, R 408.30817 R 408.30818, R 408.30819, R 408.30822, R 408.30823, R 408.30826, R 408.30827, R 408.30835, R 408.30838, R 408.30865, R 408.30869, R 408.30870, R 408.30871 and R 408.30873 of the Michigan Administrative Code are amended and R 408.30872 and R 408.30880 are rescinded as follows:

PART 8. ELECTRICAL CODE

R 408.30801 National electrical code; adoptions by reference; inspection; purchase.

Rule 801. (1) The standards contained in the national electrical code, 2008 2011 edition, except sections 110.24, 501.30B, 502.30B, 503.30B, 505.25B, 506.25B, 547.1 to 547.10, and Annex H, as published by the national fire protection association (NFPA), shall govern the installation, replacement, alteration, relocation, and use of electrical systems or material. With the exceptions noted, the national electrical code is adopted in these rules by reference.

(2) Fine print notes contained within the body of the code are not adopted as a part of the code.

(3) All references to the ANSI/ASME A17.1 2008 2010, safety code for elevators and escalators mean the Michigan elevator code and all references to the national electrical code mean the Michigan electrical code.

(4) NFPA 110, standard for emergency and standby power systems, 2005 2010 edition and NFPA 111, standard on stored electrical energy emergency and standby power systems, 2005 2010 edition, are adopted by reference in these rules.

(5) The codes are available for inspection at the Okemos office of the Michigan department of ~~energy, labor, and economic growth~~ licensing and regulatory affairs, bureau of construction codes.

(6) The National Electrical Code, NFPA 110, and NFPA 111 may be purchased from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269, or from the Michigan Department of ~~Energy, Labor, and Economic Growth~~ Licensing and Regulatory Affairs, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan 48864, at a cost as of the time of adoption of these rules of ~~\$75.00~~ 90.00, ~~\$34.50~~ 39.00, and ~~\$29.00~~ 39.00 each, respectively.

R 408.30806 Application.

Rule 806. Sections 80.9 and 80.9.1-is are added to the code to read as follows:

80.9. Application.Applicability.

~~–(a) New installations. The code applies to new installations. Buildings with construction permits dated after adoption of the code shall comply with its requirements.~~

~~–(b) Existing installations. Existing electrical installations that do not comply with the provisions of the code shall be permitted to be continued in use unless the authority having jurisdiction determines that the lack of conformity with the code presents an imminent danger to occupants. Where changes are required for correction of hazards, a reasonable amount of time shall be given for compliance, depending on the degree of the hazard.~~

~~–(c) Additions, alterations, or repairs. Additions, alterations, or repairs to any building, structure, or premises shall conform to that required of a new building without requiring the existing building to comply with all the requirements of the code. Additions, alterations, installations, or repairs shall not cause an existing building to become unsafe or to adversely affect the performance of the building as determined by the authority having jurisdiction. Electrical wiring added to an existing service, feeder, or branch circuit shall not result in an installation that violates the provisions of the code in force at the time the additions are made.~~ Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern.

80.9.1 Application.

(a) New installations. The code applies to new installations. Buildings with construction permits dated after adoption of the code shall comply with its requirements.

(b) Existing installations. Electrical systems lawfully in existence at the time of the adoption of this code shall be permitted to have their use and maintenance continued if the use, maintenance, or repair is in accordance with the original design and no hazard to life, health, or property is created by this electrical system as determined by the code official.

(c) Additions, alterations, or repairs. Additions, alterations, or repairs to any building, structure, or premises shall conform to that required of a new building without requiring the existing building to comply with all the requirements of the code. Additions, alterations, installations, or repairs shall not cause an existing building to become unsafe or to adversely affect the performance of the building as approved. Electrical wiring added to an existing service, feeder, or branch circuit shall not result in an installation that violates the provisions of the code in force at the time the additions are made.

R 408.30808 Scope.

Rule 808. Sections 80.1, 80.1.1, 80.1.2, and 80.1.3 are added to the code to read as follows:

80.1. Scope. The code regulates the design, installation, maintenance, alteration, and inspection of electrical systems including all wiring, fixtures, appliances, and appurtenances in connection with the utilization of electrical energy, within or on a building, structure, or properties, and including service entrance wiring as defined by the code.

~~Exception: Electrical wiring and equipment within 1- and 2-family dwellings shall be constructed, installed, and maintained in accordance with the Michigan residential code.~~ 1- and 2-family dwellings and multiple single-family dwellings (townhouses) not more than 3 stories high with separate means of egress and their accessory structures shall comply with the Michigan residential code.

80.1.1. Intent. The purpose of the code is to provide minimum standards to safeguard life or limb, health, property, and public welfare by regulating and controlling the design, construction, installation, quality of materials, location, operation, and maintenance or use of electrical wiring and equipment.

80.1.2. Severability. If a section, subsection, sentence, clause, or phrase of the code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the code.

80.1.3. Code conformity required. A person shall not install, alter, maintain, service, or repair, or cause or permit the installation, altering, maintaining, servicing, or repairing of electrical equipment in or on any building, structure, or part thereof, or on any premises, if by the person's action the work does not conform to the provisions of the code.

R 408.30810 Authority Stop work order.

Rule 810. Section 80.13, 80.13.1 and 80.13.2 ~~is~~ **are added to the code to read as follows:**

80.13. Authority. ~~Where used in the code, "authority having jurisdiction" means the enforcing agency in accordance with the act as defined in R 408.30828. The code shall be administered and enforced by the enforcing agency in accordance with the act.~~ Whenever the enforcing agency finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the enforcing agency may issue a stop work order.

80.13.1. Issuance. Notice shall be in accordance with the act. A person who is served with a stop work order, except for work that the person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalty provisions prescribed by the act.

80.13.2. Unlawful continuance. Any person who shall continue any work after having been served with a stop work order, except the work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to penalties as prescribed by law.

R 408.30811 Duties and powers of the code official.

Rule 811. Section 80.14, 80.14.1, 80.14.2 and 80.14.3 ~~are~~ **is added to the code to read as follows:**

80.14. Duties and powers of the code official. The code official is authorized and directed to enforce the provisions of this code. The code official may render interpretations of this code and adopt policies and procedures in order to clarify the application of its provisions. These interpretations, policies, and procedures shall be in compliance with the intent and purpose of this code. These policies and procedures shall not have the effect of waiving requirements specifically provided for in this code. ~~shall enforce the provisions of the code and shall act on any question relative to the installation, alteration, repair, maintenance, or operation of electrical wiring and equipment, except as otherwise specifically provided for by statute.~~

80.14.1. Department records. The enforcing agency shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, notices and orders issued. These records shall be retained in the official records for the period required for the retention of public records.

80.14.2. Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

80.14.3. Right of Entry. Whenever it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in any building or upon any premises any conditions or violations of this code that make the building or premises unsafe, unsanitary, dangerous, or hazardous, the code official shall have the authority to enter the building or premises at all reasonable times to inspect or to perform the duties imposed upon the code official by this code. If the building or premises is occupied, the code official shall present credentials to the occupant and request entry. If the building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or

premises and request entry. If entry is refused, the code official shall have recourse to every remedy provided by law to secure entry.

R 408.30812 Means of appeal.

Rule 812. Sections ~~80.15, and 80.15.1~~, and 80.15.2 are added to the code to read as follows:

80.15. Means of appeal. ~~A person may appeal a decision of the enforcing agency to the board of appeals. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form of construction is proposed. The application shall be filed under the act.~~ An interested person may appeal the decision of the enforcing agency to the board of appeals in accordance with the act. An application for appeal shall be based on a claim that the true intent of the code or the rules governing construction have been incorrectly interpreted, the provisions of the code do not apply, or an equal or better form of construction is proposed. The decision of a local board of appeals may be appealed to the construction code commission in accordance with the act and timeframes.

80.15.1. Limitation of authority. The board of appeals shall have no authority relative to interpretation of the administration of the code nor shall such board be empowered to waive requirements of the code.

80.15.2. Qualifications. The board of appeals shall consist of members who are qualified in accordance with the act.

R 408.30815 Maintenance of existing wiring and equipment.

Rule 815. Section 80.18 of the code is added to read as follows:

80.18. Maintenance of existing wiring and equipment. Every building, structure, or part thereof shall be kept in good electrical repair by the owner.

R 408.30817 Disconnection of dangerous electrical equipment.

Rule 817. Section 80.18.1 is added to the code to read as follows:

80.18.1. Disconnection of dangerous electrical equipment. If the use of any electrical equipment is found imminently dangerous to human life or property, the enforcing agency may condemn the equipment or disconnect it from its source of electric supply, except that the enforcing agency shall not disconnect the service entrance equipment or utility service drop wires unless the entrance equipment or utility wires in themselves constitute a hazard to life or property. If the enforcing agency condemns or disconnects dangerous equipment, then the agency shall place a ~~red tag~~ **notice** on the equipment listing the causes for the condemnation or disconnection and the penalty under the act for the unlawful use of the equipment. The agency shall give written notice of the condemnation or disconnection and the causes for condemning or disconnecting the equipment to the owner or the occupant of the building, structure, or premises. A person shall not remove the **notice tag** or reconnect the electrical equipment to its source of electric supply, or use or permit the use of electrical current in the electrical equipment, until the causes for the condemnation or disconnection are remedied and a permit for the electrical repairs of the equipment is obtained from the enforcing agency.

R 408.30818 Permits and certificates.

Rule 818. Sections ~~80.19, 80.19.1, of the code is amended and 80.19, 80.19.2, 80.19.3, 80.19.4, 80.19.5, 80.19.6, 80.19.7, and 80.19.8~~, **80.19.9, 80.19.10, 80.19.11, 80.19.12 and 80.19.13** are added to the code to read as follows:

80.19. Permits and certificates. A person shall not equip a building with electrical conductors or equipment or make an alteration of, change in, or addition to, electrical conductors or equipment without receiving a written permit to do the work described. If the electrical installation or alterations of, changes in, or addition to, electrical conductors or equipment are found to be in compliance with the provision of the code and if the work has passed the inspection of the enforcing agency, then the enforcing agency shall, upon the request of the permit holder to whom the permit was issued, issue a certificate of final electrical inspection. The certificate certifies that the provisions of the code have been complied with. This section does not apply to installations that are referred to in section 7(3)(a), (b), (c), (d), (e), (f), (h), (k), (l), or (o) of 1956 PA 217, MCL 338.887.

80.19.1. To whom permits are issued.

(1) A permit for any type of electrical installation may be secured by 1 of the following:

(a) A holder of an electrical contractor license or the qualifying master for the electrical contractor when authorized by the electrical contractor to secure a permit.

(b) A homeowner who occupies or will occupy a single-family dwelling and other accessory structures located on the same lot intended for use by the homeowner for which the permit is obtained and who will install the electrical equipment as certified by the homeowner on the permit application ~~in accordance with~~ **pursuant to** the act.

(2) A permit for a fire alarm system may be secured by the holder of a fire alarm specialty contractor license or the qualifying fire alarm specialty technician qualifying the fire alarm specialty contractor when authorized by the fire alarm specialty contractor to secure a permit.

(3) A permit for an electrical sign or outline lighting, as defined in section 1b(1) and (2) of 1956 PA 217, MCL 338.881b(1) and (2), may be secured by the holder of a sign specialty contractor license or the sign specialty technician qualifying the sign specialty contractor when authorized by the sign specialty contractor to secure a permit.

(4) A permit for electrical wiring associated with the installation, removal, alteration, or repair of a water well pump on a single-family dwelling to the first point of attachment in the house from the well, may be secured by a registered pump installer under part 127 of 1978 PA 368, MCL 333.12701 to 333.12771.

(5) A permit for wiring associated with existing mechanical and plumbing systems referenced in section 7(3)(i) of 1956 PA 217, MCL 338.887(3)(i), may be secured by the following:

(a) A holder of a mechanical contractor license issued ~~in accordance with~~ **pursuant to** section 6(3)(a), (b), (d), (e), and (f) of 1984 PA 192, MCL 338.976(3)(a), (b), (d), and (f).

(b) A holder of a plumbing contractor license issued ~~in accordance with~~ **pursuant to** 2002 PA 733, MCL 338.3511 to 338.3569.

80.19.2. Application for permit. Each application for a permit, with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The permit application shall contain all applicable information ~~in accordance with~~ **pursuant to** with the act and shall include the signature of the applicant in compliance with section 80.19.1 of the code.

80.19.3. Permit expiration. ~~If work for which a permit is issued is not started within 6 months of the date of permit issuance or if work is abandoned for a period of 6 months, then the permit shall lapse and cease to be in effect.~~ **Each permit issued by the code official under the provisions of the code shall expire by limitation and become null and void if the work authorized by the permit is not begun within 180 days from the date of the permit or if not inspected after the work is begun for a period of 180 days. Before the work may be restarted, the permit shall be reinstated if the code has not changed. If the code has changed and the work was not started, a new permit is required based on the current requirements.**

80.19.3.1. Posting of permit. The permit or a copy shall be kept on site of the work until the project is completed.

80.19.4. Uncompleted installation notification. If a person to whom a permit is issued for the installation and inspection of electrical conductors and electrical equipment quits the installation for any reason, then the person shall notify the enforcing agency.

80.19.5. Inspection and refunds for partial installation. If an installation is partially completed, then a permit holder, upon quitting the installation, shall notify the enforcing agency and shall request an inspection. The inspector shall record the acceptance of, or violations against, the work installed on the permit record according to the findings of the inspector. The enforcing agency shall not grant a refund to the permit holder of the permit fee covering electrical equipment installed and inspected.

80.19.6. Owner notification to enforcing agency. If a permit holder quits an installation after the electrical equipment is installed and fails to notify the enforcing agency, then the building owner or his or her agent may notify the enforcing agency and request inspection. Upon inspection, the enforcing agency shall send the permit holder a notice of a violation. The owner may then secure another licensed contractor to proceed with the work if the new contractor is properly covered by a permit.

80.19.7. Transfer of permit. An electrical permit is not transferable.

80.19.8. Fraudulent application for permit. A permit that is issued in violation of the laws of this state or as a result of false or fraudulent information or misinterpretation of conditions is subject to revocation at the direction of the enforcing agency. The enforcing agency shall notify the person holding the permit to appear and show cause why the permit should not be revoked. Failure to appear is sufficient grounds for revocation of the permit.

80.19.9. Suspension or revocation of permit. The code official shall have the authority to suspend or revoke a permit issued under the provisions of this code whenever the permit is issued in error or on the basis of incorrect, inaccurate, or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

80.19.10. Annual permit. In place of an individual permit for each alteration to an already approved electrical installation, the enforcing agency may issue an annual permit upon application to any person, firm, or corporation. The applicant shall be licensed pursuant to the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892.

80.19.11. Annual permit records. The person, firm, and corporation to whom an annual permit is issued shall keep a detailed record of alterations made under an annual permit. Access to the records shall be provided at all times and the records shall be filed with the enforcing agency.

80.19.12. Time limitation of application. An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless the application has been pursued in good faith or a permit has been issued; except that the code official may grant 1 or more extensions of time for additional periods not exceeding 90 days each. The extension shall be requested in writing and justifiable cause shall be demonstrated.

80.19.13. Validity of permit. The issuance of a permit or approval of construction documents shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or any other ordinance of the jurisdiction. No permit presuming to give authority to violate or cancel the provisions of this code shall be valid.

The issuance of a permit based upon construction documents and other data shall not prevent the code official from thereafter requiring the correction of errors in the construction documents and other data, or from preventing building operations being carried on thereunder, when in violation of this code or other ordinances of this jurisdiction.

R 408.30819 Plans and specifications.

Rule 819. Sections 80.21, 80.21.1, ~~and 80.21.2~~, **80.21.3 and 80.21.4** are added to the code to read as follows:

80.21. Plans and specifications. An applicant shall submit a detailed set of plans and specifications with the application for an electrical permit for any wiring or alteration to an electrical system if the system requires installation of electrical equipment that has an ampacity of more than 400 amperes for the service or feeder and if the calculated floor area in a building is more than 3,500 square feet. The enforcing agency may request plans for projects that include an unusual design. The electrical drawings shall include all of the following details:

- (a) Lighting layout.
- (b) Circuiting.
- (c) Switching.
- (d) Conductor and raceway sizes.
- (e) Wattage schedule.
- (f) Service location and riser diagram.
- (g) Load calculations **and available fault current calculations.**
- (h) A proposed method of construction that is drawn with symbols of a standard form.

All conductors are assumed to be copper unless otherwise stated in the plan. Specifications, when provided, shall also include the information listed in this rule. The selection of suitable disconnect and overcurrent devices to provide proper coordination and interrupting capacity for a wiring system is the responsibility of the designer. The enforcing agency, when approving electrical plans, does not assume responsibility for the design or for any deviations from any electrical drawings. The permit holder shall ensure that the plans and specifications approved by the enforcing agency, or a certified copy of the plans and specifications, where required, are available on the jobsite for the use of the enforcing agency.

80.21.1. Preparation of plans. An architect or engineer shall prepare, or supervise the preparation of, all plans and specifications for new construction work or repair, expansion, addition, or modification work. The architect or engineer shall be licensed under 1980 PA 299, MCL 339.101 to 339.2919. The plans and specifications shall **be sealed and signed pursuant to 1980 PA 299, MCL 339.101 to 339.2919** ~~bear the architect's or engineer's signature and seal.~~

Note: For exceptions, see 1980 PA 299, MCL 339.101 to 339.2919.

~~80.21.2. Review of construction documents. The enforcing agency shall review the application, construction documents, and other data filed by an applicant for a permit. If the enforcing agency finds that the proposed work conforms to the requirements of the code and related laws and ordinances and that the fees are paid, then the agency shall issue a permit to the applicant.~~
Application and permits. The code official shall receive applications, review construction documents, and issue permits for the installation and alteration of electrical systems, inspect the premises for which the permits have been issued, and enforce compliance with the code.

The code official may issue a permit for the construction of and part of an electrical system before the entire construction documents for the whole system have been submitted or approved, provided adequate information, and detailed statements have been filed complying with all pertinent requirements of this code. The holders of the permit shall proceed at their own risk without assurance that the permit for the entire electrical system will be granted.

Work shall be installed pursuant to the code and approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

80.21.3. Previous approvals. This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been previously

issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

80.21.4 . Retention of construction documents. The code official shall retain 1 set of approved construction documents for a period of not less than 180 days from the date of final inspection of the permitted work.

R 408.30822 Inspections.

Rule 822. Sections 80.22, 80.22.1 and 80.22.2 are added to the code to read as follows:

~~80.22. Scheduling inspection~~ **Inspection requests.** ~~An enforcing agency shall be given not less than 24 hours' notice to inspect electrical equipment. The holder of the permit or his or her duly authorized agent shall notify the code official when work is ready for inspection. The permit holder shall provide access to and means for inspections of work that is required by this code.~~ An enforcing agency shall perform the inspection within a reasonable period of time after the request for inspection is made

~~80.22.1. Inspection notice.~~ **Notices and orders.** ~~Only the enforcing agency shall post a notice of inspection at, or remove a notice from, the jobsite. The enforcing agency shall maintain a record of all inspections.~~ **The code official shall issue all necessary notices or orders to ensure compliance with this code.**

~~80.22.2. Concealing electrical installation. A person shall not conceal, or cause to be concealed, any conductors and equipment before the equipment is approved by the enforcing agency.~~ **The code official may conduct inspections deemed necessary to determine compliance with the provisions of this code. Construction or work for which a permit is required shall be subject to inspection by the code official, and the construction or work shall remain accessible and exposed for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. Neither the code official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.**

R 408.30823 Connection to electricity supply.

Rule 823. Section 80.25 is added to the code to read as follows:

80.25. Connection to electricity supply. Except where work is performed under an annual permit or except as otherwise provided in the code, a person, firm, or corporation shall not make connection to a supply of electricity or to supply electricity to any electric equipment installation for which a permit is required or that has been disconnected or ordered to be disconnected **until authorized by the enforcing agency.**

R408.30826 Violations.

Rule 826. Section 80.23 is added to the code to read as follows:

80.23. Violations. If it is found that any electrical equipment does not conform to the provisions of the code, then the enforcing agency shall notify, in writing, the person who installs, or who is responsible for installing, the electrical equipment, in accordance with the act, of the defect, misuse, or violation. ~~Violations and Violation~~ penalties shall be as specified in the act **and with the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892. Any portions that do not comply shall be corrected and this portion shall not be covered or concealed until authorized by the enforcing agency.**

R 408.30827 Service equipment.

Rule 827. Section 80.26 **and 80.26.1** is **are** added to the code to read as follows:

80.26. Service equipment. The enforcing agency shall approve service equipment installed, altered, or repaired before the load side of the meter is energized.

80.26.1 Emergency service repairs. The governing utility shall be permitted to reconnect the electrical service, prior to approval by the enforcing agency, following emergency repairs performed by an electrical contractor licensed pursuant to the electrical administrative act, 1956 PA 217, MCL 338.881 to 338.892. The electrical contractor shall secure a permit within the next business day after the work is completed. This requirement is not applicable to new service connections, upgrades, structural fires, or other planned modifications.

R 408.30835 Number of service-entrance conductor sets.

Rule 835. Section 230.40 of the code is amended to read as follows:

230.40. Number of Service-Entrance Conductor Sets. Each service drop, set of overhead service conductors, set of underground conductors, or service lateral shall supply 1 set of service-entrance conductors.

Exception 1: A building with more than 1 occupancy shall be permitted to have 1 set of service-entrance conductors for each service, as defined in section 230.2 of the code, run to each occupancy or group of occupancies. If the number of service disconnect locations for any given classification of service does not exceed 6, the requirements of 230.2(E) shall apply at each location. If the number of service disconnect locations exceeds 6 for any given supply classification, all service disconnect locations for all supply characteristics, together with any branch circuit or feeder supply sources, if applicable, shall be clearly described using suitable graphics or text, or both, on 1 or more plaques located in an approved, readily accessible location(s) on the building or structure served and as near as practicable to the point(s) of attachment or entry(ies) for each service drop or service lateral, and for each set of overhead or underground service conductors.

Exception 2: Where 2 to 6 service disconnecting means in separate enclosures are grouped at 1 location and supply separate loads from 1 service drop, set of overhead service conductors, set of underground service conductors, or service lateral, 1 set of service-entrance conductors may supply each or several such service equipment enclosures.

Exception 3: A 2-family dwelling or a multifamily dwelling may have 1 set of service-entrance conductors installed to supply the circuits covered in section 210.25 of the code.

Exception 4: One set of service-entrance conductors connected to the supply side of the normal service disconnecting means may supply each or several systems covered by section 230.82(4) or section 230.82(5) of the code.

R 408.30838 NFPA code; adoption by reference.

Rule 838. Sections ~~700.2~~ **700.8** and ~~701.3~~ **701.8** of the code are amended to read as follows:

700.28. Installation ~~Emergency systems.~~ Emergency systems shall be installed ~~in accordance with~~ **pursuant to** NFPA 110 and NFPA 111, ~~2005~~ **2010** editions, which are adopted by reference in these rules.

701.38. Installation ~~Legally required standby systems.~~ Legally required standby systems shall be installed ~~in accordance with~~ **pursuant to** NFPA 110 and NFPA 111, ~~2005~~ **2010** editions, which are adopted by reference in these rules.

~~R 408.30865—Unsupported raceways.~~**Switches controlling lighting loads.**

Rule 865. Section ~~342.30~~ **404.2(C)** of the code is amended to read as follows:

~~342.30(C) 404.2(C). Unsupported raceways~~ **Switches controlling lighting loads.** ~~Type IMC shall be permitted to be unsupported where the raceway is not more than 900 millimeters (36 inches) long and remains in unbroken lengths (without coupling). Such raceways shall terminate in an outlet box, junction box, device box, cabinet, or other termination at each end of the raceway.~~ **Where switches control lighting loads supplied by a grounded general purpose branch circuit, the grounded circuit conductor for the controlled lighting circuit shall be provided at the switch location.**

Exception 1: The grounded circuit conductor shall be permitted to be omitted from the switch enclosure where either of the following conditions apply:

(1) Conductors for switches controlling lighting loads enter the box through a raceway. The raceway shall have sufficient cross-sectional area to accommodate the extension of the grounded circuit conductor of the lighting circuit to the switch location whether or not the conductors in the raceway are required to be increased in size to comply with 310.15(B)(3)(a).

(2) Cable assemblies for switches controlling lighting loads enter the box through a framing cavity that is open at the top or bottom on the same floor level, or through a wall, floor, or ceiling that is unfinished on 1 side.

Exception 2: Where lighting loads supplied by a grounded general purpose circuit and controlled by 3-way, or 3-way and 4-way switches, the grounded neutral conductor shall be required to be supplied to only 1 switch location.

R 408.30869 Grounding conductors.

Rule 869. Section 250.118 of the code is amended to read as follows:

250.118. Types of equipment grounding conductors. The equipment grounding conductor run with or enclosing the circuit conductors shall be 1 or more or a combination of the following:

(1) A copper, aluminum, or copper-clad aluminum conductor. This conductor shall be solid or stranded; insulated, covered, or bare; and, in the form of a wire or a busbar of any shape.

(2) Rigid metal conduit.

(3) Intermediate metal conduit.

(4) Electrical metallic tubing.

(5) Flexible metallic tubing where the tubing is terminated in listed fittings and meeting both of the following conditions:

(a) The circuit conductors contained in the tubing are protected by overcurrent devices rated at 20 amperes or less.

(b) The length of flexible metallic tubing in the ground return path does not exceed 1.8m (6 feet).

(6) Armor of type AC cable as provided in section 320.108 of the code.

(7) The copper sheath of mineral-insulated, metal-sheathed cable.

(8) Type MC cable where listed and identified for grounding in accordance with both of the following:

~~**(a) The combined metallic sheath and grounding conductor of interlocked metal tape-type MC cable.**~~

~~**(b) The metallic sheath or the combined metallic sheath and grounding conductors of the smooth or corrugated tube type MC cable.**~~ Type MC cable that provides an effective ground-fault current path pursuant to 1 or more of the following:

(a) It contains an insulated or uninsulated equipment grounding conductor in compliance with 250.118(1).

(b) The combined metallic sheath and uninsulated equipment grounding or bonding conductor of interlocked metal tape-type MC cable that is listed and identified as an equipment grounding conductor.

(c) The metallic sheath or the combined metallic sheath and equipment grounding conductors of the smooth or corrugated tube-type MC cable that is listed and identified as an equipment grounding conductor.

(9) Cable trays as permitted by sections 392.3(c) and 392.7 of the code.

(10) Cablebus framework as permitted by section 370.3 of the code.

(11) Other listed electrically continuous metal raceways and listed auxiliary gutters.

(12) Surface metal raceways listed for grounding.

R 408.30870 ~~Unsupported raceways~~ Overcurrent protection.

Rule 870. Section ~~625.21~~~~344.30(C)~~ of the code is amended to read as follows:

625.21 344.30(C). Unsupported raceways Overcurrent protection. Type RMC shall be permitted to be unsupported where the raceway is not more than 900 millimeters (36 inches) long and remains in unbroken lengths (without coupling). Such raceways shall terminate in an outlet box, junction box, device box, cabinet, or other termination at each end of the raceway. **Overcurrent protection for feeders supplying electric vehicle supply equipment shall be sized for continuous duty and shall have a rating of not less than 125% of the maximum load of the electric vehicle supply equipment. When noncontinuous loads are supplied from the same feeder, the overcurrent device shall have a rating of not less than the sum of the noncontinuous loads plus 125% of the continuous loads. The branch circuit supplying the electric vehicle equipment shall be an individual branch circuit sized for continuous duty and shall have a rating of not less than 125% of the maximum load of the electric vehicle supply equipment.**

R 408.30871 ~~Unsupported raceways~~ Bonding other metal piping.

Rule 871. Section ~~352.30(C)~~ **250.104(B)** of the code is amended to read as follows:

~~352.30(C). Unsupported raceways. Type PVC shall be permitted to be unsupported where the raceway is not more than 900 millimeters (36 inches) long and remains in unbroken lengths (without coupling). Such raceways shall terminate in an outlet box, junction box, device box, cabinet, or other termination at each end of the raceway.~~

250.104(B). (1) Bonding other metal piping. If installed in or attached to a building or structure, a metal piping system, including gas piping, capable of becoming energized shall be bonded to the service equipment enclosure, the grounded conductor at the service, the grounding electrode conductor if of sufficient size, or to 1 or more grounding electrodes used.

(2) Other than corrugated stainless steel tubing (csst). The bonding jumper shall be sized in accordance with table 250.122 using the rating of the circuit capable of energizing the piping. The equipment grounding conductor for the circuit that is capable of energizing the piping may serve as the bonding means.

(3) Corrugated stainless steel tubing (csst). Csst gas piping systems shall be bonded by connection to a metallic piping segment or fitting, either outside or inside the building, between the individual gas meter and the first csst fitting. The bonding jumper shall be sized in accordance with Table 250.66 based on the size of the service-entrance conductor or feeder supplying each occupancy and as permitted in Table 250.66, but not smaller than 6 AWG copper (or equivalent).

R 408.30872 ~~Unsupported raceways~~ Rescinded.

~~Rule 872. Section 355.30(C) of the code is amended to read as follows:~~

~~355.30(C). Unsupported raceways. Type RTRC shall be permitted to be unsupported where the raceway is not more than 900 millimeters (36 inches) long and remains in unbroken lengths (without~~

~~coupling). Such raceways shall terminate in an outlet box, junction box, device box, cabinet, or other termination at each end of the raceway.~~

R 408.30873 Uses permitted.

Section 334.10 of the code is amended to read as follows:

334.10. Uses Permitted. Type NM, type NMC, and type NMS cables may be used in the following:

- (1) **One- and 2-family dwellings** and their attached or detached garages, and their storage buildings.
- (2) **Multifamily dwellings except as prohibited in section 334.12 of the code.**
- (3) **Other structures except as prohibited in section 334.12 of the code. In structures exceeding 1 floor above grade, cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15-minute finish rating as identified in listings of fire rated assemblies in accordance with** pursuant to the Michigan building code.
- (4) **Cable trays in structures permitted to be types III, IV, or V where the cables are identified for the use.**

~~R 408.30880 Unsupported raceways.~~ **Rescinded.**

~~Rule 880. Section 358.30(C) of the code is amended to read as follows:~~

~~358.30(C). Unsupported raceways. Type EMT shall be permitted to be unsupported where the raceway is not more than 900 millimeters (36 inches) long and remains in unbroken lengths (without coupling). Such raceways shall terminate in an outlet box, junction box, device box, cabinet, or other termination at each end of the raceway.~~

NOTICE OF PUBLIC HEARING

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Michigan Part 8- Electrical Code Rules (ORR# 2011-040 LR)
State Boundary Commission General Rules (ORR# 2011-041 LR)
Michigan Part 9a.-Mechanical Code (ORR# 2012-010 LR)

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on Thursday, February 28, 2013, at 9:00 a.m. in Conference Room 3, 2501 Woodlake Circle, Okemos, MI 48864. The Part 8 Electrical Code rules are proposed to be effective 30 days after filing with the Secretary of State. The State Boundary Commission General rules are proposed to be effective 30 days after filing with the Secretary of State. The Part 9a. Mechanical Code is proposed to be effective 120 days after filing with the Secretary of State.

The public hearing is being held to receive public comments on the proposed amendments to the administrative rules noted above. Testimony will be taken for each rule set in the order the rules are listed above. Individuals who are not present during testimony for a particular rule set will be provided an opportunity to testify after final testimony on the Michigan Part 9a Mechanical Code.

The proposed revisions to Part 8 Electrical rules will adopt the 2011 edition of the National Electrical Code, a national industry standard, and provide Michigan-specific amendments. The hearing is being conducted by the Department under the authority of Section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4 and 2011-4, MCL 445.2011, 445.2025, and 445.2030.

The proposed revisions to the State Boundary Commission General rules will streamline the procedures specified in the rules that the State Boundary Commission follows to process petitions for incorporation or consolidation as well as petitions or resolutions for annexation and to reflect revisions to the State Boundary Commission Act. The hearing is being conducted by the Department under the authority of Section 4 of 1968 PA 191, MCL 123.1004 and Executive Reorganization Order Nos. 1973-2, 1980-1, 1996-2, 2003-1, 2008-4 and 2011-4, MCL 299.11, 16.732, 445.2001, 445.2011, 445.2025 and 445.2030.

The proposed Mechanical rules will adopt the 2012 edition of the International Mechanical Code with amendments, deletions, and additions deemed necessary for use in Michigan. The hearing is being conducted by the Department under the authority of Section 4 of 1972 PA 230, MCL 125.1504 and Executive Reorganization order Nos. 2003-1, 2008-20 and 2011-4, MCL 445.2011, 445.2025 and 445.2030.

The proposed rules will be published in the February 1, 2013 *Michigan Register*. Copies of the proposed Michigan amendments to the Michigan Electrical Code rules, the State Boundary Commission General rules and the Michigan Mechanical Code rules may be obtained for a fee of \$3.00 for each rule set by submitting a check or money order made payable to the State of Michigan, to the Bureau at the address below. You may download a free copy of the proposed amendments by visiting the Bureau's

website at www.michigan.gov/bcc. The amendments are located under “What’s New” on the front page of the website.

Oral or written comments may be presented in person at the hearing on February 28, 2013, or submitted in writing by mail, email, or facsimile no later than 5:00 p.m., February 28, 2013 to the address stated below. If your presentation at the public hearing is in written form, please provide a copy to the Rules Analyst, at the conclusion of your testimony at the hearing.

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 241-6312
Facsimile (517) 241-9570
matsumotos@michigan.gov

The meeting site and parking is accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Hillary Cushman at (517) 335-2972 (voice) at least 14 days prior to the hearing. LARA is an equal opportunity employer/program.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES LICENSING AND
REGULATORY AFFAIRS**

DIRECTOR'S OFFICE

STATE BOUNDARY COMMISSION

GENERAL RULES

Proposed January 10, 2013

Filed with the Secretary of State on

These rules take effect 30 days after filing with the Secretary of State

(By authority conferred on the **director of the department of licensing and regulatory affairs** ~~state members of the state boundary commission~~ by section 4 of Act No. 191 of the Public Acts of 1968 **1968 PA 191, MCL 123.1004** as amended, being ~~S123.1004 of the Michigan Compiled Laws and Executive Reorganization Order Nos. 1973-2, 1980-1, 1996-2, 2003-1, 2008-4 and 2011-4, being MCL 299.11, 16.732, 445.2001, 445.2011, 445.2025 and 445.2030~~)

R 123.1, R 123.4, R 123.21, R 123.22, R 123.23, R 123.24, R 123.44, R 123.51, R 123.52, R 123.53, R 123.54, R 123.55, R 123.61, R 123.62, R 123.63, R 123.64 and R 123.65, of the Michigan Administrative Code are amended and R 123.20, R 123.30, R 123.31, R 123.32, R 123.33, R 123.34, R 123.35, R 123.36, R 123.37, R 123.38, R 123.40, and R 123.56 are added and R 123.6, R 123.25, R 123.26, R 123.27, R 123.41, R 123.42, R 123.45, R 123.46, R 123.47, R 123.66, R 123.67, R 123.68, R 123.69, R 123.71, R 123.72, R 123.73, R 123.74 and R 123.75 are rescinded as follows

PART 1. GENERAL PROVISIONS

R 123.1 Definitions; A to I.

Rule 1. (1) The terms defined in the act have the same meaning when used in these rules.

(2) As used in these rules:

~~(2)(a)~~ **(a)** “Act” means ~~Act No. 191 of the Public Acts of 1968~~ **1968 PA 191**, as amended, being ~~SSMCL 123.1001 to 123.1020 and known as the state boundary commission act of the Michigan Compiled Laws.~~

~~(3)(b)~~ **(b)** “Active ~~petition~~ **docket**” means an annexation petition or resolution, or incorporation or consolidation petition that is first in line at the time of its filing, or becomes first in line by the removal of a prior blocking petition or court action.

~~(4)(c)~~ **(c)** “City incorporation” means the formation of a new city from ~~township unincorporated~~ **township** territory; 1 or more villages and contiguous ~~unincorporated~~ **township** territory, or an incorporated village without change of boundaries.

~~(5)(d)~~ **(d)** “Consolidation” means the formation of a new city from **1 of the following: 1 city, 1 village and unincorporated territory; or 1 city and 1 village; or 2 or more cities; or 2 or more cities and**

~~unincorporated territory; or 2 or more cities and 1 village; or 2 or more cities and 1 village and unincorporated territory; or 2 or more cities and 2 or more villages; or 2 or more cities, 2 or more villages and unincorporated territory; or 1 city and unincorporated territory.~~

(i) Two or more cities.

(ii) One or more cities and 1 or more villages.

(iii) One or more cities and 1 or more townships.

(iv) One or more cities and 1 or more villages and 1 or more townships.

(v) One or more cities and 1 or more villages and 1 or more portions of townships.

(vi) “Department” means the department of licensing and regulatory affairs.

~~(6)~~ **(e) “Director” means the director of the department or an authorized representative of the director.**

~~(7)~~ **(f) “Docket” means a boundary adjustment petition or resolution filed with the commission pursuant to the act and these rules.**

~~(6)~~ **(g) Home rule city act” means Act No. 279 of the Public Acts of 1909, as amended, 1909 PA 279, being SSMCL 117.1 to 117.38 of the Michigan Compiled Laws.**

~~(7)~~ **(h) “Home rule village act” means Act No. 278 of the Public Acts of 1909, as amended 1909 PA 278, being SSMCL 78.1 to 78.28 of the Michigan Compiled Laws.**

(8) (i) “Inactive petition docket” means an annexation petition or resolution or incorporation or consolidation petition that must wait in line because of an earlier filed petition describing the same area in part or whole or a petition blocked by legal action.

R 123.4 Definitions; V, W.

Rule 4. **(1) “Village incorporation” means the formation of a new village from unincorporated township territory.**

(2) “Writing” means communication via mail, personal delivery, or electronic communication.

R 123.6 ~~Determining if population is over 100.~~ **Rescinded.**

Rule 6. ~~(1) Where an annexation petition or resolution is first in line upon its filing and can be acted upon, then the filing date population of 100 or less, or over 100 in the area to be annexed shall be determined as soon as practicable after the filing by 1 of the following methods:~~

~~–(a) By joint agreement of the involved township board and city council and their certification to the commission of the count.~~

~~–(b) By submission of either the township board or the city council, or both, of a certified list of the names and addresses of all residents in the area proposed to be annexed on the date of the petition was filed. If both legislative bodies file lists, the commission shall examine the list and using the guidance of applicable statutes, attorney general opinions or court decisions make a final population determination. If only 1 legislative body files a resident list, the commission shall supply a copy of the filed list to the nonfiling board and grant 30 days for that board to file written challenges to any names contained in the filed list. Upon the filing of a written challenge the commission shall examine the challenge and using the guidance of applicable statutes, attorney general opinions or court decisions the commission receives only 1 filed certified resident list and that list receives no challenge, it shall stand as the determined population and the commission shall so certify.~~

~~–(c) By a door to door canvas and interviews with the people.~~

~~–(d) By the method described in subrule (2).~~

~~–(2) Where an annexation petition or resolution has waited in line, the filing date population of 100 or less, or over 100 in the area to be annexed shall be determined as follows:~~

~~–(a) Residential structures within the area to be annexed shall be counted and classified as single family homes, mobile homes and multiple dwellings including duplex, triplex, apartments and condominiums. The total number of dwelling units shall be determined according to this classification and where necessary records are available, adjusting the count for addition or subtraction of dwelling units since the filing date.~~

~~–(b) The average number of residents per dwelling unit factor by type of structure where available, or the average number of residents per dwelling unit for the municipality in which the area to be annexed is located or the county in which it is situated, derived in each instance from the last federal decennial or special census, shall be obtained. The commission shall use the factor that can be derived from the smallest political subdivision in which the area to be annexed is located to determine the population as of the date of filing.~~

~~–(c) The number and type of dwelling unite shall be multiplied by the average number of residents factor for that type of dwelling unit and the resultant populations for type of dwelling unit shall be added together to obtain total population.~~

PART 2. PREPARATION, FILING, AND PROCESSING PETITIONS COMMISSION SESSIONS

R 123.20 Adjudicative sessions; call; attendance; quorum; presiding officer.

Rule 20. (1) When necessary, the chairperson of the commission shall call an adjudicative session for the purpose of transacting any business described in R 123.21 under the conditions prescribed in R 123.22 and R 123.23. When possible, the sessions shall be attended by all state members serving and by the county members appointed to sit on the commission.

(2) A quorum of the commission shall consist of at least 3 members, at least 2 of whom shall be state members. Regardless of the number of commissioners present, at least 3 concurring votes are required to take any adjudicative action.

R 123.21 Filings; Business.

~~Rule 21. (1) An incorporation or consolidation petition or annexation petition or resolution shall be filed with the secretary at his office in Lansing. A statement signed by at least 1 signer of the petition or resolution designating the name and address of a natural person to receive notices on behalf of all signers shall accompany the filing or shall be filed separately within 10 business days from the filing. Notice served by the commission or any other person on the designated natural person shall be deemed notice to all signers of the petition or voters on the resolution. Notice to an affected city, village, township or county shall be through its clerk. Upon the filing of a petition or resolution, the secretary shall make a notation as to the date and time of filing. Receipt of a petition is not an acknowledgement that the petition is proper or sufficient.~~

~~–(2) Other items permitted or required to be filed with the commission shall be tendered in a legible reproducible form and deposited with or mailed to the secretary at his office in Lansing. He shall receive them only during business hours.~~

~~–(3) A person may request, in writing, that the secretary notify him in writing when a document has been filed in a specific pending matter and the secretary shall send the notice at the earliest practicable time after the filing of the item.~~

~~–(4) A person may inspect the commission's file regarding a specific pending matter at the secretary's office in Lansing during regular business hours and at his own expense may cause the contents of the file to be duplicated. A person other than the commissioners or staff may not remove an original or sole copy of any item from the file. A duplicate copy may be removed under such conditions as the secretary~~

~~imposes for not to exceed 24 hours for the purposes of duplication.~~ **At an adjudicative session, the commission may take 1 or more of the following actions:**

- (a) Decide on the legal sufficiency of a docket before its call for a public hearing.**
- (b) Order the date, place, and time for a public hearing.**
- (c) Take any appropriate action authorized by the act after the public hearing has been held.**

R 123.22 Pleadings. Votes.

~~Rule 22. In addition to petitions required by sections 7 and 12 of the act, and petitions and resolutions required by subsections (2) and (7) of section 9 of the home rule city act, objections to the form or substance of a petition or resolution, answers to such objections, a memorandum brief on issues of fact or law and such other pleadings as the commission by its order shall allow may be filed.~~ **At an adjudicative session, a concurring vote of at least 3 commissioners is required to take action. The votes of each commissioner shall be noted in the commission's record. The chairman shall be a voting member of the commission on all matters. A member of the commission who has a conflict of interest, financial or otherwise, in a docket before the commission shall disclose the interest before the commission takes action on the docket. The disclosures shall be a matter of record in its official proceedings.**

R 123.23 ~~Determination of days to public hearing.~~ Record and finality of action.

~~Rule 23. (1) For purposes of determining the minimum 60 days and maximum 220 days from filing of an active petition or resolution to the holding of the public hearing, the filing day shall not be counted. (2) The 60 and 220 day public hearing requirement shall not apply to inactive petitions until such time that they may become active petitions.~~

A record shall be made of all proceedings at an adjudicative session. Commission action is final when the chairperson signs the findings of fact and conclusions of law, which recommend that the director reject, deny, approve, or approve with adjusted boundaries, and submits the findings of fact and conclusions of law to the director. The effective date of the action on the docket is determined by the order document, which shall be signed by the director. For purposes of judicial review, the action on a docket is not final until the order document is signed by the director.

R123.24 ~~Rejected petitions or resolutions.~~ Administrative sessions.

Rule 24. (1) The commission shall reject an annexation petition or resolution for territory which includes all or any part of the territory which was described in any annexation petition or resolution filed within the preceding 2 years and which was denied by the commission or was defeated in an election.

~~(2) The commission shall reject a consolidation petition if a proposition to consolidate the identical municipalities has been voted on within the 2 years immediately preceeding the filing of the later petition.~~

~~(3) Upon such determination, the secretary shall return the petition or resolution to the petitioner and certify the reasons for its rejection.~~

~~(4) The 2 year period shall start on the day the prior annexation petition or resolution was filed.~~

~~(5) The 2 year period shall not apply to annexation petitions or resolutions that are rejected by the commission for not being legally sufficient.~~

(1) When necessary, the chairperson may call the other state members into an administrative session.

(2) At an administrative session, the state members may take any action to administer the act and to implement its purposes. No docket before the commission shall be discussed at an administrative session.

- (3) At an administrative session, the vote of 2 state members is required to take a final action.
- (4) At the direction of the chairperson, 1 or more state members may conduct administrative business of the commission that does not require a vote.

R 123.25 Petitions general. Rescinded.

~~Rule 25. (1) Part I of incorporation or consolidation petitions or annexation petitions or resolutions shall consist of a map or drawing clearly showing the territory proposed to be incorporated, consolidated or annexed and be constructed by the petitioner in such a way that its minimum size is 8 1/2" x 13" with a maximum size of 14" x 18". Parts II through VI shall be prepared on forms furnished by the commission. Part VII shall contain a map showing the relationship of the area proposed for incorporation, consolidation or annexation to the balance of the involved and adjacent units of government which may be of a size that the petitioner chooses and which shall not be considered by the commission in its determination of legal sufficiency. For the purpose of determining legal sufficiency, a perimeter map or drawing and legal description shall be part of the petition and shall be substantially accurate and consistent with each other.~~

~~–(2) In a petition submitted to the public for signature, the map or drawing accompanying the signature sheets shall be of sufficient scale and clarity as to be unambiguous to a layman with respect to the inclusion or exclusion of his own property and the relationship of the petitioned area to identifiable roads, section lines, existing local government boundaries and major geographic features. Upon discovery of a disparity between various public or private records as to land ownership or the location of local government boundaries, the disparity shall be brought to the attention of the commission, the petitioners and the affected units of government prior to the commission's meeting on the legal sufficiency of the petition.~~

~~–(3) Where maps, drawings, plate, deeds, surveys, legal descriptions, or other documents that are part of the petition or resolution contain reference to additional recorded data or documents that are found to be necessary to determine the accuracy of the petition, map, drawing, or legal description, and copies of these recorded documents are not a part of the petition, the secretary may request the petitioner to supply copies of these documents to the commission by a date specified by the secretary, which date shall be prior to the commissions' meeting on the legal sufficiency of the petition.~~

~~–(4) An annexation petition by a firm, corporation, or other formal organization and an annexation resolution shall contain copies of resolutions, meetings minutes, correspondence, transmittal letters, or other documents that are necessary to show that the petitioner was authorized to file. Where a city planning commission or a board of commission other than the city council initiates annexations, the petition shall contain copies of all documents necessary to show that the city council was fully informed before approving the annexation resolution. Similarly, for other organizations for which an officer or other authorized agent initiates a petition, it shall be documented that the proper governing body of that organization was fully informed before approving the annexation petition.~~

~~–(5) Upon filing, each petition shall stand or fall on its own content. Modifications, corrections, deletions or additions to a petition shall not be made except these authorized in subrule (3) and R 123.27.~~

R 123.26 Forms. Rescinded.

~~Rule 26. A petition, and survey certification which may be required by commission order pursuant to R 123.27, shall be prepared on a size paper and in accordance with forms furnished by the commission. A petition and certificate shall contain only the matters prescribed by the forms and such additional information as the commission deems necessary. A petition shall not be considered unless it is prepared on the proper commission form. Blank petition forms shall be furnished by the commission.~~

R 123.27 ~~Boundary identification.~~ Rescinded.

~~Rule 27. (1) A petition for incorporation, consolidation, or annexation or an annexation resolution shall identify graphically and by an accurate written description the boundaries of the land that are proposed to be incorporated, consolidated, or annexed.~~

~~(2) The commission may order that all or part of the boundaries of the are be certified by a registered land surveyor.~~

**PART 3. PREPARATION AND FILING OF PETITIONS OR RESOLUTIONS AND
PROCESSING OF DOCKETS**

R 123.30 Forms.

Rule 30. A petition or resolution shall be filed on the forms provided by the department.

R 123.31 Registered electors; certification.

Rule 31. (1) Upon the filing of petition initiating an annexation by registered electors of the area proposed to be annexed, the township clerk shall certify to the department the number of registered electors in the area proposed to be annexed on the date the petition was filed. The township clerk shall certify whether the signatures are of registered electors in the area proposed to be annexed.

(2) Upon the filing of a petition initiating an incorporation the township or city clerk, whichever is appropriate, shall certify whether the signatures are of qualified electors and freeholders of the area proposed to be incorporated.

(3) Upon the filing of a petition initiating a consolidation, the township or city clerk, whichever is appropriate, shall certify whether the signatures are of qualified electors of the area proposed to be consolidated.

(4) Upon the filing of a referendum petition asking for an election on an annexation, the city or township clerk, whichever is appropriate, shall certify to the department the number of registered voters in the area proposed to be annexed, the remainder of the township and the annexing city, whichever is appropriate, on the filing date of the petition. The city or township clerk, whichever is appropriate, shall certify whether the signatures are of registered electors of the city, of the area proposed to be annexed, or the balance of the township, whichever is appropriate.

(5) Upon the filing of a referendum petition asking for an election on a consolidation or incorporation, the city or township clerk, whichever is appropriate, shall certify to the department the number of registered electors in the area proposed to be consolidated or incorporated on the filing date of the petition. The city or township clerk, whichever is appropriate, shall certify whether the signatures are of qualified electors of the area proposed to be incorporated or consolidated.

R 123.32 Filings; notice of filing.

Rule 32. (1) An incorporation, consolidation, or annexation petition or annexation resolution shall be filed with the commission. A statement signed by at least 1 signer of the petition or resolution designating the name and address of a natural person to receive notices on behalf of all signers shall accompany the filing or shall be filed separately within 10 business days from the filing. Notice served by the department or any other person on the designated natural person shall be deemed notice to all signers of the petition or voters on the resolution. Notice to an affected city, village, township, or county shall be through its clerk. Upon the filing of a petition

or resolution, the department shall make a notation as to the date and time of filing and assign a docket number. Receipt of a petition or resolution shall not be an acknowledgement that it is legally sufficient.

(2) Other items permitted or required to be filed shall be tendered in a legible reproducible form and transmitted to the department.

(3) A person may request, in writing, that the department notify the person in writing when a document has been filed involving a specific docket and the department shall send the notice at the earliest practicable time after the filing of the item.

(4) A person may inspect the file regarding a specific docket at the department during regular business hours, and at the person's own expense may cause the contents of the file to be duplicated.

R 123.33 Determination of population of area proposed for annexation.

Rule 33. (1) When an annexation petition or resolution is filed, the filing population on the filing date shall be determined as soon as practicable after the filing by 1 of the following methods:

(a) By joint agreement of the involved township board and city council and their certification of the population.

(b) By submission of either the township board or the city council, or both, of a certified list of the names and addresses of all residents in the area proposed to be annexed on the date the petition or resolution was filed.

(c) By a door-to-door canvas and interviews with the people within the area proposed to be annexed and certification to the department by the involved units of government.

(2) If both legislative bodies file lists, the commission shall examine the lists and using the guidance of applicable statutes, attorney general opinions, or court decisions make a final population determination.

(3) If only 1 legislative body files a resident list, the department shall supply a copy of the filed list to the non-filing board and grant 30 days for that board to file written challenges to any names contained in the filed list. Upon the filing of a written challenge, the commission shall examine the challenge and using the guidance of applicable statutes, attorney general opinions, or court decisions, the commission shall make a final population determination.

(4) If the department receives only 1 filed certified resident list and that list receives no challenge, it shall stand as the determined population and the commission shall so certify.

R 123.34 Pleadings.

Rule 34. In addition to petitions required by sections 7 and 12 of the act, MCL 123.1007 and 123.1012, and petitions and resolutions required by sections 9(2) and (7) of the home rule city act, 1909 PA 279, MCL 117.9(2) and (7), objections to the form or substance of a petition or resolution, answers to such objections, a memorandum brief on issues of fact or law, and such other pleadings as the commission may allow may be filed up to 7 days prior to the commissions meeting on the docket.

R 123.35 Determination of days to public hearing.

Rule 35. (1) For purposes of determining the minimum 60 days and maximum 220 days from filing of an active docket to the holding of the public hearing, the days shall be counted from the date of the notice of filing.

(2) The 60- and 220-day public hearing requirement shall not apply to inactive dockets until such time that they may become active dockets.

R 123.36 Rejected petitions or resolutions.

Rule 36. (1) The department shall reject an annexation petition or resolution for territory that includes all or any part of the territory which was described in any annexation petition or resolution filed within the preceding 2 years and that was denied by the department or was defeated in an election.

(2) The department shall reject a consolidation petition if a proposition to consolidate the identical municipalities had been voted on within the 2 years immediately preceding the filing of the later petition.

(3) Upon this determination, the department shall return the petition or resolution to the petitioner and shall certify the reasons for its rejection.

(4) The 2-year period shall start on the day the prior annexation petition or resolution was filed.

(5) The 2-year period shall not apply to incorporation, consolidation, or annexation petitions or resolutions that were rejected for not being legally sufficient.

R 123.37 Petitions and resolutions; contents.

Rule 37. (1) A petition for incorporation, consolidation, or annexation or an annexation resolution shall identify graphically on a map, labeled “part I”, and by an accurate written legal description, labeled “part III”, the boundaries of the lands that are proposed to be incorporated, consolidated, or annexed.

(2) A “part I” map of any incorporation, consolidation, or annexation petitions or annexation resolutions shall consist of 1 or more sheets of a map clearly showing the territory proposed to be incorporated, consolidated, or annexed. The “part I” map shall be constructed by the petitioner so its minimum size is 8 ½” x 11” and maximum size is 36”x 42”. The “part I” map shall be of sufficient scale and clarity as to be unambiguous to laypersons with respect to the inclusion or exclusion of their own property and shall include all of the following:

(a) All section lines, quarter section lines, and government corners that affect the boundary of the area proposed for annexation, incorporation, or consolidation.

(b) All current and proposed municipal boundary lines in the area of and in proximity to the area proposed for annexation, incorporation, or consolidation, including labeling of all adjacent governmental units.

(c) A north arrow.

(d) A map scale that is both stated and represented by a graphical bar.

(e) All roads, streets, and highways that relate to the boundary of the area proposed for annexation, incorporation, or consolidation.

(f) All major geographic features that relate to the boundary of the area proposed for annexation, incorporation, or consolidation.

(g) Labeled parcels of common ownership along the perimeter of the area proposed for annexation, incorporation, or consolidation to avoid splitting parcels under common ownership into separate municipalities.

(h) If there is more than 1 sheet in the “part I” map, there shall be a master sheet that shows how the individual sheets relate to the whole. The master sheet shall clearly show the location of all major features including major roads, section lines, existing local government boundaries, and major geographical features.

(3) For any incorporation, consolidation or annexation petitions or annexation resolutions, the existing municipal boundary lines shown on the “part I” map shall be substantially consistent with

the municipal boundary histories on file with the secretary of state's office of the great seal at the time of the filing.

(4) For an annexation petition or resolution, the area proposed for annexation shall be contiguous to the annexing city as referenced by the municipal boundary histories on file with the secretary of state's office of the great seal at the time of the filing.

(5) Parts II and IV through VI shall be prepared on forms furnished by the department.

(6) "Part VII" shall contain a map that shows the relationship of the area proposed for incorporation, consolidation, or annexation to the balance of the involved and adjacent units of government. The map may be of a size that the petitioner chooses and shall not be considered in the determination of legal sufficiency. For the purpose of determining legal sufficiency, a "part I" map and "part III" legal description shall be part of the petition or resolution and shall be substantially accurate and consistent with each other. The commission may order that all or part of the boundaries of the area be reviewed by a professional land surveyor to verify the accuracy and consistency of the "part I" map, and "part III" legal description.

(7) In a petition submitted to the public for signature, the "part I" map shall accompany the signature sheets. Upon discovery of a disparity between various public or private records as to land ownership or the location of local government boundaries, the department shall issue a report on the disparity and notify the commission, the petitioners, and the affected units of government prior to the commission's meeting on the legal sufficiency.

(8) When documents that are part of the petition or resolution contain reference to additional recorded data or documents that are found to be necessary to determine the accuracy of the petition, resolution, map, or legal description, and copies of these recorded documents are not a part of the docket, the department may request the petitioner to supply copies of these documents by a specified date.

(9) An annexation petition initiated by a firm, corporation, or other formal organization shall contain copies of resolutions, meeting minutes, correspondence, transmittal letters, or other documents that are necessary to show that the petitioner was authorized to file on behalf of the organization.

(10) An annexation resolution initiated by a city shall contain copies of all documents necessary to show that the city council approved the annexation resolution before filing with the department.

(11) Upon filing, each petition or resolution shall stand or fall on its own content. Before the legal sufficiency meeting, the department may provide notice of obvious scrivener's errors in the docket and allow the petitioner to correct these errors, except for errors on a "part-I" map that accompanied the petition signature sheets. The department shall retain a copy of the docket in its original state for docket proceedings. Modifications, corrections, deletions, or additions to a petition shall not be made except those authorized in this subrule.

R 123.38 Withdrawal of petition or resolution.

Rule 38. (1) An annexation resolution filed pursuant to section 9(7)(a) of the home rule city act, 1909 PA 279, MCL 117.9(7)(a), or an annexation petition filed pursuant to section 9(7)(b) of the home rule city act, MCL 117.9(7)(b), may be withdrawn by the legislative body or persons, firms, corporations, or government agencies that have initiated the petition or resolution without commission action through the filing of a written request and by official action, if desired by the petitioner. When an annexation resolution or petition is withdrawn, the docket proceedings shall terminate and another petition or resolution shall be filed for action on a future docket.

(2) The department may give notice to a petitioner referenced in subrule (1) of this rule that the petition or resolution does not appear to meet the requirements of the act, the home rule city act, the home rule village act, or these rules.

PART 4. PREHEARING PROCEDURES~~COMMISSION PROCEDURES~~

R 123.40 Petitions and resolutions filed with the commission; notice.

Rule 40. Within 10 days after the filing of an incorporation or consolidation petition or annexation petition or resolution, under the commission's jurisdiction, the department shall complete and transmit to the involved local governmental clerk, the affected county clerk, and the secretary of state a notice of filing with the commission.

~~R 123.41 Forms.~~ **Rescinded.**

~~Rule 41.~~ The documents required by R 123.42 and R 123.46 to R 123.49 shall be completed only on forms prescribed and furnished by the commission. In addition to the contents of the documents prescribed by those rules, the documents shall contain such additional information as the commission deems necessary and reasonable.

~~R 123.42 Annexation, consolidation, and incorporation, criteria information.~~ **Rescinded.**

~~Rule 42.~~ Upon the declaration of legal sufficiency of an annexation petition or resolution or a consolidation or incorporation petition, the petitioner and the involved units of government shall be instructed to complete and return within 30 days of mailing a criteria information evaluation questionnaire which shall be provided by the commission.

~~R 123.43 Prehearing conference.~~ **Legal sufficiency meeting.**

~~Rule 43.~~ (1) Upon filing the form required by R 123.42, the commission may hold a prehearing conference to which the petitioners, representatives from involved units of government, affected or interested state and federal agencies, affected planning commissions, other interested organizations and persons may attend and which may include, among other topics:

~~(a) Examination and discussion of the information shown to be available on the criteria information evaluation questionnaire.~~

~~(b) Determination if any additional information not listed on the questionnaire is available.~~

~~(c) Determination of what criteria information needs to be developed.~~

~~(d) Adoption of a resolution which shall:~~

~~(i) Specify additional information that is required to be developed.~~

~~(ii) Specify dates the information shall be available.~~

~~(iii) Specify who shall provide the information.~~

~~(iv) Specify who shall pay the cost of providing the information.~~

~~(2) Within 10 days after adoption of the resolution provided for in subrule (1), the commission shall notify by mail the persons originally notified of the prehearing conference and include a copy of the resolution and the completed and filed criteria information evaluation questionnaire.~~ **Before the public hearing, the commission shall examine the legal sufficiency of the docket at an adjudicative session. The commission shall determine legal sufficiency of a docket pursuant to the act and these rules.**

~~R 123.44 Criteria information, methods of gathering.~~ **Annexation, consolidation, and incorporation; criteria information; methods of gathering.**

Rule 44. ~~After declaring the sufficiency of a petition or resolution, the commission may obtain the criteria data or information prescribed in section 9 of the act in the following manner:~~

~~–(a) By directing the secretary to send written questions or requests for specific information to the petitioner, involved units of government, affected or interested state and federal agencies, affected planning commissions or other interested persons or governmental units to file in writing with the commission by a specified date prior to the public hearing date.~~

~~–(b) By directing its staff, departmental employees or other personnel to gather the data or information it deems necessary which shall be available to the commission at a specified date prior to the public hearing date. In addition, the commission may direct that the raw data or information be analyzed, organized, condensed, summarized and presented to the commission in a compacted form. All raw data shall be maintained as part of the commission's file.~~

~~–(c) By contracting with outside consultants to perform the functions of subdivision (b).~~

~~–(d) By using the method described in R-123.43.~~

~~–(e) By using all or any combination of these methods.~~ **After declaring the legal sufficiency of a docket for annexation, incorporation, or consolidation, the commission shall obtain the criteria data or information prescribed in section 9 of the act, MCL 123.1009, by using all or any combination of the following methods:**

(a) Instructing the petitioner and the involved units of government to complete and return within 30 days of receiving from the department a criteria data or information evaluation questionnaire.

(b) Directing staff or other personnel to gather the necessary data or information, which shall be made available to the department at a specified date before the public hearing date. In addition, the department may direct that the raw data or information be analyzed, organized, condensed, summarized, and presented to the commission in a compacted form. All raw data shall be maintained as part of the docket.

(c) Directing staff to send written questions or requests for specific information to the petitioner, involved units of government, affected or interested state and federal agencies, affected planning commissions or other interested persons or governmental units to be filed in writing with the department by a specified date.

R 123.45 Petitions filed with county clerk or secretary of state; notice to commission. Rescinded.

~~Rule 45. (1) Within 10 days after the filing of an annexation petition or resolution a county clerk or the secretary of state shall complete and transmit to the commission and involved units of government a notice of filing of request for local government boundary change.~~

~~–(2) Within 30 days after reviewing the notice required by subrule (1), the commission shall complete and transmit to the county clerk or secretary of state a commission reply to the notice.~~

R 123.46 Petitions and resolutions filed with commission; notice. Rescinded.

~~Rule 46. (1) Within 10 days after the filing of an incorporation or consolidation petition or annexation petition or resolution, the commission shall complete and transmit to the involved local governmental clerk, the affected county clerk or the secretary of state a notice of petition filing with the commission.~~

~~–(2) Within 30 days after receiving the notice required by subrule (1), a clerk or secretary of state shall complete and transmit to the commission a response.~~

R 123.47 Notice of final action. Rescinded.

~~Rule 47. (1) Upon the completion of all its actions on an active city or village annexation petition or resolution, a city or village council or township board shall notify the commission by mail.~~

~~–(2) Upon the completion of all action on an active incorporation or consolidation petition or a home rule city annexation petition or resolution under the jurisdiction of the commission, the commission shall notify the clerks of the involved local governments, the county clerk and secretary of state by mail that action on the petition is closed.~~

PART 5. COMMISSION SESSIONS~~COMMISSION PUBLIC HEARINGS~~

R 123.51 ~~Adjudicative sessions; call; attendance; presiding officer.~~ **Place; notices; adjournment.**

~~Rule 51. (1) When necessary the chairman shall call an adjudicative session, which may be an executive session, in Lansing or such other place as he designates, for the purpose of transacting any business described in R 123.52 under the conditions prescribed in R 123.53 and R 123.54. Where possible, the sessions shall be attended by all state members serving and by the county members appointed to sit on the commission.~~

~~–(2) A quorum consists of at least 3 members, at least 2 of whom are state members. Regardless of the number of commissioners present, at least 3 concurring votes are required to take any final adjudicative action.~~

(1) A public hearing shall be held in a public place located in or near the territory to be included within a proposed municipal boundary adjustment. Notice shall be given as prescribed in section 8 of the act, MCL 123.1008.

(2) The department shall notify the clerks of the involved units of government and the county clerks of the involved counties under the act and these rules.

(3) If the municipal boundary adjustment is an annexation matter, the department shall notify the property owners located within, and within 300 feet of, the proposed annexation pursuant to the home rule city act and these rules.

(4) When the commission is considering revising the boundaries from those proposed in the petition or resolution, the department shall provide notice as required by the act, the home rule city act, and the home rule village act.

R 123.52 ~~Business.~~ **Commissioners present; presiding officers; scope.**

~~Rule 52. At an adjudicative session, the commission shall take 1 or more of the following actions:~~

~~–(a) Pass on the propriety, sufficiency, and legality of a petition or resolution before its call for a public hearing.~~

~~–(b) Order the date, place, and time for a public hearing.~~

~~–(c) After the public hearing, and a supplemental hearing, if any, basing its decision on the evidence received at the hearings; take any appropriate action authorized by the act.~~

(1) Whenever possible, a public hearing as required by section 8 of the act, MCL 123.1008, shall be attended by all state members and the 2 county members. A member not in attendance at a public hearing shall review the public hearing record and so signify to the chairperson to be eligible to vote at subsequent adjudicative sessions. The chairperson or designee shall preside.

(2) The commission shall receive at public hearing information concerning the reasonableness of the proposed incorporation, consolidation, or annexation based on the criteria listed in section 9 of the act, MCL 123.1009. Information presented in oral or exhibit form or comment or analysis of information presented shall be germane and shall become part of the record.

(3) A person may present information at public hearing or make a statement about the effect of the proposed action upon personal interest.

R 123.53 ~~Votes.~~ **Presenters.**

~~Rule 53. At an adjudicative session a concurring vote of at least 3 commissioners is required to take final action. The votes of each commissioner shall be noted in the commission's record. The chairman is a voting member of the commission on all matters. A member may abstain from voting on any matter.~~

(1) An interested party may speak directly, may be represented by counsel, and may present 1 or more spokespersons and supporting witnesses necessary to present relevant information if the presentation is limited to a reasonable time at the discretion of the chairperson.

(2) A person shall not address the commission unless recognized by the chairperson. Upon recognition, the chairperson may state the amount of time allotted to the person recognized.

(3) A person may ask to be heard at a public hearing without having filed prior notice of appearance.

(4) The commission may waive or modify the terms of this rule if necessary for a just disposition of a pending matter or to avoid hardship, and may make such waiver or modification as it deems necessary or appropriate to implement the purpose of the act.

~~R 123.54 Record and finality of action.~~ **Official notice.**

~~Rule 54. A record shall be made of all proceedings at an adjudicative session. Commission action shall be regarded as final for all purposes other than judicial review when a vote has been recorded to reject, deny, approve, or approve with adjusted boundaries, although the commission's findings of fact and order may not have been reduced to written form and approved. Effective dates of the preceding action may be determined at the adoption of the written findings of fact and order. For purposes of judicial review, commission action is final when the written findings of fact and order are signed by the chairman. The commission may take notice of facts and of a general, technical, or scientific nature within its specialized knowledge. The commission may use its experience, technical competence, and general and specialized knowledge in the evaluation of the information presented. This rule does not permit the commission to take notice of information contrary to any statute or other law.~~

~~R 123.55 Administrative sessions.~~ **Participation by department staff.**

~~Rule 55. (1) When necessary the chairman shall call the other state members into an administrative session, which may be an executive session, in Lansing or such other place as he designates.~~

~~–(2) At an administrative session the state members may take any action, other than action required to be taken at an adjudicative session, necessary or desirable to administer the act and to effectuate its purposes and which has been included in the chairman's call and such other business as not less than a majority of the state commissioners present and voting desire to take up.~~

~~–(3) At an administrative session the vote of 2 state members is required to take a final action, except that if the commission has under consideration the hiring of staff personnel or retaining outside consultants, the unanimous vote of all state members is required.~~

~~–(4) At the direction of the chairman, 1 or more state members may meet in a special session for the purposes of conducting administrative business of the commission not requiring a vote.~~ **The department's staff may appear in an adjudicative or administrative session or a public hearing and present information as to the results of its investigations, field studies, inspection and other technical investigations and studies. The department's staff may file reports, make statements of positions or otherwise make recommendations on the record which it believes proper and lawful, based on the information presented and the department staff's knowledge. Department staff presentations may include information by members of other governmental agencies either specific to the pending docket or providing relevant background information.**

R 123.56 Additional information.

Rule 56. (1) During the 30 days immediately following a public hearing, the commission may receive additional or supplemental public hearing information including exhibits, written comments, statements, arguments, briefs, replies, or any other information that properly could have been presented at the public hearing, including information derived from the specialized knowledge of the commission or department staff. When practicable, such information shall be in a format suitable for reproduction.

(2) A person wishing to be notified of the filing of additional information shall notify the department in writing. The department shall keep a list of the interested parties and notify each person on the list of all filings.

(3) All parties shall have 7 business days, from the sending of the notice of the filing in subrule (2) of this rule, to respond to any additional information presented under subrule (1) of this rule.

PART 6. ~~COMMISSION HEARINGS~~ POST-HEARING PROCEDURES

R 123.61 ~~Place; notices; adjournment.~~ Disposition resolution; referendum.

~~Rule 61. (1) A public hearing shall be held in a public place located in the territory to be included within a proposed municipal boundary adjustment. Notice shall be given as prescribed in section 8 of the act.~~

~~–(2) If the municipal boundary adjustment is an annexation matter, the public hearing may be held in or reasonably near the area proposed to be annexed.~~

~~–(3) At the same time as the clerks of the involved units of government are notified of a public hearing, the commission shall notify the petitioners and the county clerks of the involved counties by certified mail at least 30 days before the date of the hearing. After a public hearing and consideration of the criteria in section 9 of the act, MCL 123.1009, the commission shall present findings of fact and conclusions of law at an adjudicative session. The commission shall by resolution recommend the director dispose of the docket by doing 1 of the following:~~

~~(a) Denying the docket.~~

~~(b) Approving the docket.~~

~~(c) Revising the boundaries as proposed in the petition or resolution and approve the docket with the revised boundaries.~~

~~(2) When the area approved for annexation contains a population of 100 or less, the director's order shall contain the effective date of the annexation.~~

~~(3) When the area approved for annexation contains a population of more than 100, the director's order becomes effective pursuant to the act unless a valid referendum election request petition is filed.~~

~~(4) When the area is approved for consolidation or incorporation, the director's order becomes effective pursuant to the act unless a valid referendum election request petition is filed.~~

R 123.62 ~~Commissioners present; presiding officers; scope.~~ Referendum election petition.

~~Rule 62. (1) A public hearing as required by section 8 of the act, whenever possible, shall be attended by all state members and the 2 county members. A member not in attendance at a public hearing shall review the public hearing record and so signify to the chairman to be eligible to vote at subsequent adjudicative sessions. The chairman or his designee shall preside.~~

~~–(2) At a public hearing the commission shall receive testimony concerning the reasonableness of the proposed incorporation or consolidation petition or annexation petition or resolution based upon the criteria listed in section 9 of the act, and only the presentation of evidence in oral or exhibit form or comment on or analysis of evidence shall be germane and part of the record. A person may present~~

~~evidence or make a statement about the effect of the proposed action upon his personal interest or preference.~~ **If a valid referendum petition is filed pursuant to the act or the home rule city act to ask for an election on the proposed annexation, consolidation or incorporation, the commission shall adopt a resolution recommending that the director dispose of the request by ordering the question be placed on the ballot at some future date, or by setting the date of the special election.**

(2) If an annexation referendum election is held and each area affected voting separately on the question approves the annexation by a majority vote, the commission shall adopt a resolution recommending the effective date of the annexation for the director's approval.

(3) If a referendum election is held on the question of incorporation and a majority of the electorate in the area proposed for incorporation approves the incorporation, the director's order becomes final.

R 123.63 ~~Witnesses.~~ Lists of consolidation charter commission candidates.

~~Rule 63. (1) An interested party may speak directly, may be represented by counsel and may present 1 or more spokesmen and supporting witnesses necessary to present relevant testimony if the presentation is limited to a reasonable time at the direction of the chair.~~

~~–(2) A person shall not present evidence or argument or otherwise attempt to address the commission unless he has been recognized by the chairman and sworn if giving testimony himself. Upon recognition, the chairman may state the amount of time allotted to the person recognized.~~

~~–(3) A person may ask to be heard at a public hearing without having filed prior notice of appearance.~~

~~–(4) The commission on its own motion or in response to the request of a participant, when it determines that waiver or modification of the literal terms of this rule is necessary for a just disposition of a pending matter or to avoid hardship, may make such waiver or modification of such terms as it deems necessary or appropriate to effectuate the purpose of the act.~~ **Within 5 days after the deadline for filing nominating petitions for candidates for consolidation charter commissioners, the village, township, or city clerks shall transmit to the county clerk and the department a certified list of charter commission candidates.**

R 123.64 ~~Evidence; general provisions.~~ Notice to charter commissioners.

~~Rule 64. (1) The commission shall follow the rules of evidence applicable to civil proceedings so far as is practicable, but may admit and give value to other evidence which possesses probative value commonly accepted by reasonably prudent men in the conduct of their affairs. The commission shall give effect to rules of privilege recognized by law and may exclude incompetent, immaterial and unduly repetitious evidence.~~

~~–(2) Evidence, including records and documents in possession of the commission prior to the public hearing, shall be offered and made a part of the record in the proceedings. Except as otherwise provided by law and those rules, the commission shall consider no other factual information or evidence in the determination of the case. Documentary evidence may be received by the commission in the form of copies or excerpts or by incorporation by reference.~~

~~–(3) At a public hearing a person may cross witnesses and submit rebuttal evidence. Commission members may also question witnesses.~~ **Immediately after being notified of the canvass of a vote for charter commissioners, the department shall notify the elected charter commissioners in writing that they shall meet within 10 days and furnish a certificate to be completed and returned by the charter commission certifying that it has met within the required 10 days.**

R 123.65 ~~Evidence; form.~~ Notice of final action.

~~Rule 65. (1) The commission may receive evidence in oral or exhibit form.~~

~~–(2) When it is deemed necessary or desirable the commission may direct that testimony to be given on direct examination shall be reduced to exhibit form and be offered by and served on all persons requesting the information and on the commission staff. The commission shall allow a reasonable time for preparation of the exhibit.~~

~~–(3) Notwithstanding any provisions of this rule to the contrary, a person may have a witness on his behalf present his direct testimony orally before the commission. A witness or authorized officer of a firm whose testimony is submitted in exhibit form shall be made personally available by the party of record offering his testimony for cross examination upon request by a party of record or the commission staff. If the witness is not so made available by the party of record offering this testimony, his testimony shall not be received in evidence.~~

~~–(4) Testimony received in evidence in exhibit form shall be made a part of the record, copied into or fully described in the record. The commission shall accord the evidence the same weight and sufficiency as testimony received through oral examination. This rule does not prevent a witness' reading of prepared direct testimony.~~ **Upon the completion of all its actions on an active city or village annexation petition or resolution, a city or village council or township board shall notify the department in writing.**

(2) Upon the completion of all action on an active incorporation or consolidation docket or a home rule city annexation docket under the jurisdiction of the commission, the department shall notify in writing the clerks of the involved local governments, the county clerk, and secretary of state that action on the docket is closed.

R 123.66 Judicial notice. Rescinded.

~~Rule 66. The commission may take notice of judicially cognizable facts and of a general, technical or scientific nature within its specialized knowledge. The commission shall give notice either before or during the hearing, or by reference in preliminary reports or otherwise, of the material so noticed and shall afford any person the opportunity to contest the facts so noticed. The commission may use its experience, technical competence, and general and specialized knowledge in the evaluation of the evidence presented. This rule does not permit the commission to take notice of evidence contrary to any statute or other law.~~

R 123.67 Participation by commission staff. Rescinded.

~~Rule 67 The commission staff may appear in a public hearing and through its witnesses present testimony as to the results of its investigations, field studies, inspection and other technical investigations and studies. The commission staff may file briefs, make statements of positions or otherwise make recommendations on the record which it believes proper and lawful, based on the evidence presented. Commission staff presentations may include direct or documentary testimony by consultants employed by the commission or members of other governmental agencies either specific to the pending petition or providing relevant background information. Presentations under this rule are subject to cross examinations.~~

R 123.68 Additional evidence. Rescinded.

~~–Rule 68. (1) During the 30 days immediately following a public hearing the commission may receive additional or supplemental public hearing evidence including exhibits, written comments, statements, arguments, briefs, replies or any other evidence that properly could have been presented at the public hearing, including information derived from the specialized knowledge of the commission or its staff. Where practicable such information shall be in a format suitable for reproduction.~~

~~–(2) A person wishing to be notified of the filing of additional evidence shall notify the commission in writing. The commission shall keep a list of the interested parties and notify each person on the list of all filings.~~

~~–(3) The various interested parties shall make arrangements for the examination or review of any material so filed.~~

~~–(4) If any material is filed on the twenty-sixth through thirtieth day after the public hearing, all parties shall have 7 days from the mailing of notice of the filing to answer it.~~

R 123.69 Supplemental hearings. Rescinded.

~~Rule 69. Subsequent to any public hearing required by law, the commission on its own motion may hold a supplemental hearing at its offices in Lansing or any other appropriate place for the taking of additional evidence or for the hearing of additional argument relative to the reasonableness of a pending consolidation or incorporation petition or annexation petition or resolution or for consideration of adjusting the boundaries from those contained in the petition. R 123.62 to R 123.68 apply to supplemental hearings.~~

PART 7. POSTHEARING PROCEDURES

R 123.71 Disposition resolution. Rescinded.

~~–Rule 71. (1) After a public hearing, the commission at an adjudicative session shall make findings of fact and conclusions after considering the criteria in section 9 of the act and by resolution shall dispose of the petition in 1 of the following ways:~~

~~–(a) Denial of the petition or resolution.~~

~~–(b) Approval of the petition or resolution as submitted.~~

~~–(c) Revision of the boundaries as set forth in the petition and approval of the petition or resolution with the revised boundaries.~~

~~–(2) Where the commission is considering adjusting the boundaries either inward or outward from those proposed in the petition or resolution, the commission may hold a supplemental hearing as provided in R 123.69.~~

~~–(3) Where the area approved for annexation contains a population of 100 or less, the resolution shall contain the effective date of the annexation.~~

~~–(4) Where the area approved for annexation contains a population of more than 100, the resolution may contain a tentative date for the annexation to become effective. This date shall become the effective date if a valid election request petition is not filed.~~

~~–(5) Where the area is approved for consolidation or incorporation, the resolution becomes effective 45 days after the date of the resolution unless within that 45 days a valid election request petition is filed.~~

R 123.72 Election petition; resolution. Rescinded.

~~–Rule 72. (1) If within 30 days of the approval order for an annexation containing a population of more than 100 or within 45 days of the approval order for a consolidation or incorporation valid petition is filed asking for an election on the proposed annexation, consolidation or incorporation, the commission shall dispose of the request by adopting a resolution stating their intent to place the question on the ballot at some future date, or setting the date of the special election.~~

~~–(2) If an annexation election is held and each area voting on the question approves by a majority vote, the commission shall adopt a resolution setting the effective date of the annexation.~~

R 123.73 Registered electors; certification. Rescinded.

~~Rule 73. (1) Upon the filing of an annexation initiatory petition signed by 20 % of the registered electors of the area proposed to be annexed, the township clerk shall certify to the commission the number of registered electors in the area proposed to be annexed on the date the initiatory petition was filed.~~

~~–(2) Upon the filing of a petition asking for an election on annexation questions the city or township clerk, or both, whichever is appropriate, shall certify to the commission the number of registered voters in the area to be annexed, the remainder of the township and the annexing city whichever is appropriate on the filing date of the petition.~~

~~–(3) Upon the filing of a petition asking for an election on a consolidation or incorporation question, the city, village, or township clerk, any or all whichever is appropriate, shall certify to the commission the number of registered voters in the area to be consolidated or incorporated on the filing date of the petition.~~

R 123.74 Lists of consolidation charter commission candidates. Rescinded.

~~Rule 74. Within 5 days after the deadline for filing nominating petitions for candidates for consolidation charter commissioners, the village, township, or city clerks shall transmit to the county clerk a certified list of charter commission candidates.~~

R 123.75 Notice to charter commissioners. Rescinded.

~~Rule 75. Immediately after being notified of the canvass of a vote for charter commissioners, the commission shall notify the elected charter commissioners by registered mail that they shall meet within 10 days and furnish a certificate to be completed and returned by the charter commission certifying that it has met within the required 10 days.~~

NOTICE OF PUBLIC HEARING

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Michigan Part 8- Electrical Code Rules (ORR# 2011-040 LR)
State Boundary Commission General Rules (ORR# 2011-041 LR)
Michigan Part 9a.-Mechanical Code (ORR# 2012-010 LR)

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on Thursday, February 28, 2013, at 9:00 a.m. in Conference Room 3, 2501 Woodlake Circle, Okemos, MI 48864. The Part 8 Electrical Code rules are proposed to be effective 30 days after filing with the Secretary of State. The State Boundary Commission General rules are proposed to be effective 30 days after filing with the Secretary of State. The Part 9a. Mechanical Code is proposed to be effective 120 days after filing with the Secretary of State.

The public hearing is being held to receive public comments on the proposed amendments to the administrative rules noted above. Testimony will be taken for each rule set in the order the rules are listed above. Individuals who are not present during testimony for a particular rule set will be provided an opportunity to testify after final testimony on the Michigan Part 9a Mechanical Code.

The proposed revisions to Part 8 Electrical rules will adopt the 2011 edition of the National Electrical Code, a national industry standard, and provide Michigan-specific amendments. The hearing is being conducted by the Department under the authority of Section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4 and 2011-4, MCL 445.2011, 445.2025, and 445.2030.

The proposed revisions to the State Boundary Commission General rules will streamline the procedures specified in the rules that the State Boundary Commission follows to process petitions for incorporation or consolidation as well as petitions or resolutions for annexation and to reflect revisions to the State Boundary Commission Act. The hearing is being conducted by the Department under the authority of Section 4 of 1968 PA 191, MCL 123.1004 and Executive Reorganization Order Nos. 1973-2, 1980-1, 1996-2, 2003-1, 2008-4 and 2011-4, MCL 299.11, 16.732, 445.2001, 445.2011, 445.2025 and 445.2030.

The proposed Mechanical rules will adopt the 2012 edition of the International Mechanical Code with amendments, deletions, and additions deemed necessary for use in Michigan. The hearing is being conducted by the Department under the authority of Section 4 of 1972 PA 230, MCL 125.1504 and Executive Reorganization order Nos. 2003-1, 2008-20 and 2011-4, MCL 445.2011, 445.2025 and 445.2030.

The proposed rules will be published in the February 1, 2013 *Michigan Register*. Copies of the proposed Michigan amendments to the Michigan Electrical Code rules, the State Boundary Commission General rules and the Michigan Mechanical Code rules may be obtained for a fee of \$3.00 for each rule set by submitting a check or money order made payable to the State of Michigan, to the Bureau at the address below. You may download a free copy of the proposed amendments by visiting the Bureau's

website at www.michigan.gov/bcc. The amendments are located under “What’s New” on the front page of the website.

Oral or written comments may be presented in person at the hearing on February 28, 2013, or submitted in writing by mail, email, or facsimile no later than 5:00 p.m., February 28, 2013 to the address stated below. If your presentation at the public hearing is in written form, please provide a copy to the Rules Analyst, at the conclusion of your testimony at the hearing.

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 241-6312
Facsimile (517) 241-9570
matsumotos@michigan.gov

The meeting site and parking is accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Hillary Cushman at (517) 335-2972 (voice) at least 14 days prior to the hearing. LARA is an equal opportunity employer/program.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~LABOR, AND ECONOMIC GROWTH~~ LICENSING AND
REGULATORY AFFAIRS**

DIRECTOR'S OFFICE

CONSTRUCTION CODE

Proposed December 26, 2012

Filed with the Secretary of State on

These rules take effect 120 days after filing with Secretary of State

(By authority conferred on the director of the department of ~~energy, labor, and economic growth~~ **licensing and regulatory affairs** by section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-~~204~~ **and 2011-4**, MCL 445.2011, 445.2025 **and 445.2030**)

R 408.30901a, R 408.30906a, R 408.30910a, R 408.30912a, R 408.30915a, R 408.30918a, R 408.30923a, R 408.30927a, R 408.30928a, R 408.30935a, R 408.30945a, R 408.30946, R 408.30947, R 408.30948, and R 408.30995a of the Michigan Administrative Code are amended and R 408.30947a, R 408.30948a, and R 408.30996 are added to the code as follows:

PART 9A. MECHANICAL CODE

AMENDMENTS AND ADDITIONS TO BASIC MECHANICAL CODE

R 408.30901a ~~Adoption by reference of international~~ **International** mechanical code; **adoption by reference.**

Rule 901a. The provisions of the international mechanical code, ~~2009~~**2012** edition, except for sections 102.10, 102.11, 103.2, 103.4, 106.5.1 to 106.5.3, 107.2.5 to 107.2.5.3, 109.2 to 109.7, 1011 **to 1011.2**, 1101.10 and appendix B govern the construction, alteration, relocation, demolition, use, and occupancy of buildings and structures. With the exceptions noted, the code is adopted in these rules by reference. All references to the International Building Code, International Residential Code, International Energy Conservation Code, International Electrical Code, International Mechanical Code, and International Plumbing Code mean the Michigan Building Code, Michigan Residential Code, Michigan Uniform Energy Code, Michigan Electrical Code, Michigan Mechanical Code, and Michigan Plumbing Code respectively. The code is available for inspection at the Okemos office of the Michigan department of ~~energy, labor, and economic growth~~ **licensing and regulatory affairs**, bureau of construction codes. The code may be purchased from the International Code Council, 500 New Jersey Avenue, N.W. 6th Floor, Washington, D.C. 20001, or from the Michigan Department of ~~Energy, Labor, and Economic Growth~~ **Licensing and Regulatory Affairs**, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan 48864, at a cost as of the time of adoption of these rules of ~~\$62.00~~**71.00** each.

R 408.30906a Work permit; submitting plans and specifications to authority.

Rule 906a. Sections 106.1, 106.2, 106.3, 106.3.1 106.4, 106.4.3 and 106.4.4 of the code are amended to read as follows:

106.1. Permits required. A contractor licensed under 1984 PA 192, MCL 338.971 to 338.988 who desires to erect, install, enlarge, alter, repair, remove, convert, or replace a mechanical system, the installation of which is regulated by this code, or to cause such work to be done, shall first make application in accordance with the requirements of the act.

~~Exception: A person who holds a valid boiler installer license issued under 1965 PA 290, MCL 408.751 to 408.776 shall secure a permit for the installation of a steam or hot water boiler which carries a pressure of not more than 15 psig for steam and 160 degrees Fahrenheit for hot water, and which is located in a private residence or in an apartment building having 5 or fewer dwelling units.~~

106.2. Permits not required. A person is not required to obtain a permit to perform mechanical work on any of the following items:

- (a) A portable heating or gas appliance that has inputs of less than 30,000 Btu's per hour.
- (b) Portable ventilation appliances and equipment.
- (c) A portable cooling unit.
- (d) Steam, hot water, or chilled water piping within any heating or cooling equipment or appliances regulated by the code.
- (e) The replacement of any minor part that does not alter the approval of equipment or an appliance or make such equipment or appliance unsafe.
- (f) A portable evaporative cooler.
- (g) Self-contained refrigeration systems that contain 10 pounds (4.5 kg) or less of refrigerant, or that are actuated by motors of 1 horsepower (0.75 kW) or less.
- (h) Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
- ~~(i) A boiler or pressure vessel for which a permit is required by sections 17 and 18 of 1965 PA 290, MCL 408.767 and 408.768.~~
- ~~(j)~~ (i) An oil burner that does not require connection to a flue, such as an oil stove and a heater equipped with a wick.
- ~~(k)~~ (j) A portable gas burner that has inputs of less than 30,000 Btu's per hour.
- ~~(l)~~ (k) When changing or relocating a gas meter or regulator, a permit is not required when installing gas piping which shall be limited to 10 feet in length and not more than 6 fittings.
- ~~(m)~~ (l) When installing **vertical geothermal vertical closed** loops under the supervision of a mechanical contractor licensed in HVAC as long as the company meets both the following:
 - (1) Has obtained a certificate of registration as a well drilling contractor pursuant to part 127 of the public health code.
 - (2) Has installed the **vertical geothermal vertical closed loop loops** in accordance with the ~~final determination and notice~~ **department of environmental quality's best practices** regarding geothermal heat pump closed loops. ~~issued by department of environmental quality under part 31, water resources protection, of the natural resources and environmental protection act, 1994 PA 451.~~

Exemption from the permit requirements of this code shall not be deemed to grant authorization for work to be done in violation of the provisions of this code or other laws or ordinances of this jurisdiction.

106.3 Application for permit. Each application for a permit, along with the required fee, shall be filed with the code official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The contractor who is performing the work shall sign the application. The permit application shall indicate the proposed occupancy of all parts of the building and of that

portion of the site or lot, if any, not covered by the building or structure and shall contain the information required by the act.

106.3.1 Construction documents. (1) Construction documents, engineering calculations, diagrams, and other data shall be submitted in 2 or more sets with each application for a permit. The code official shall require construction documents, computations, and specifications to be prepared and designed by a registered design professional in accordance with 1980 PA 299, MCL 339.101 to 339.2919.

Exceptions:

1. The code official may waive the submission of construction documents, calculations, or other data if the nature of the work applied for is such that reviewing of construction documents is not necessary to determine compliance with the code.

2. Construction documents shall not be required when obtaining a permit from the State of Michigan, bureau of construction codes for any of the following circumstance:

- a. One-and 2-family dwellings when the heating or cooling input rating is 375,000 Btu's or less.
- b. Alterations and repair work determined by the mechanical official to be of a minor nature.
- c. Business, mercantile, and storage buildings having HVAC equipment only, with ~~one~~1 fire area and not more than 3,500 square feet.
- d. Work completed by a governmental subdivision or state agency costing less than \$15,000.00.

Bureau code officials may require construction documents in unusual designs and where questions arise as a result of a system design beyond conventional system parameters.

(2) Where special conditions exist, the code official may require additional construction documents to be prepared by a registered design professional.

(3) Construction documents shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that the work conforms to the provisions of this code.

(4) Construction documents for buildings more than 2 stories in height shall indicate where penetrations will be made for mechanical systems, and the materials and methods for maintaining required structural safety, fire-resistance rating, and fire blocking.

106.4. Permit issuance. The enforcing agency shall review the application, construction documents, and other data filed by an applicant for permit in accordance with the act. If the enforcing agency finds that the proposed work conforms to the requirements of the act, the code, and all other applicable laws and ordinances thereto, and that all fees prescribed by the act have been paid, then the enforcing agency shall issue a permit to the applicant.

106.4.3. Expiration. Each permit issued by the code official under the provisions of the code shall expire by limitation and become null and void if the work authorized by the permit is not begun within 180 days from the date of the permit, or if the work authorized by the permit is suspended or abandoned at any time after the work is begun for a period of 180 days. Before work is recommenced, **the permit shall be reinstated if the code has not changed. If the code has changed and the work was not started**, a new permit shall be first obtained, provided no changes have been made or will be made in the original construction document and that suspension or abandonment has not exceeded 1 year.

106.4.4. Extensions. A permittee holding an unexpired permit may apply for an extension of the time within which the permittee may begin work under that permit if for good and satisfactory reasons. The code official shall extend the time for action by the permittee for a period not exceeding 180 days if there is reasonable cause. No permit shall be extended more than once.

R 408.30910a Stop work orders.

Rule 910a. Section 108.5 of the code is amended to read as follows:

108.5. Stop work orders. ~~Upon notice from the enforcing agency that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, the work shall immediately cease.~~ Notice shall be in accordance with the act. A person who is served with a stop work order, except for work that a person is directed to perform to remove a violation or unsafe condition, is subject to the penalty provisions prescribed by the act.

R 408.30912a Enclosed ~~parking garages~~**Parking Garages**.

Rule 912a. Section 404.1 of the code is amended to read as follows:

404.1. Enclosed parking garages. Mechanical ventilation systems for enclosed parking garages are not required to operate continuously where the system is arranged to operate automatically upon detection of carbon monoxide (CO) not to exceed 25 parts per million (ppm) and nitrogen dioxide (NO₂) not to exceed 3 ppm by approved automatic detection devices. Upon activation such systems shall operate for 30 minutes.

404.1.1 Testing. Testing of detection devices shall be per manufacturer's installation instructions. All detectors shall be calibrated ~~on a yearly basis or as per the manufacturer's instructions~~ **at an interval not to exceed 1 year**.

R 408.30915a Scope of article; adoption by reference.

Rule 915a. Section 601.1 of the code is amended to read as follows:

601.1. The provisions of this article govern the construction, installation, alteration, maintenance, and repair of duct systems. Duct systems shall be in compliance with the provisions of the code, the provisions of NFPA ~~90A-2009~~ **90A-2012** and NFPA ~~90B-2009~~ **90B-2012**, the standards of the national fire protection association, and the provisions of air conditioning contractors of America (ACCA) manual D-2009, manual J-2006, manual N-200**98**, and manual Q-1990, as listed in chapter 15.

R 408.30918a Registers, grilles, and diffusers.

Rule 918a. Section ~~603.17.2~~ **603.18.2** of the code is amended to read as follows:

~~603.17.2.~~ **603.18.2.** Prohibited locations. Diffusers, registers, and grilles shall be prohibited in the floor or its upward extension within toilet and bathing rooms required by the Michigan building code to have smooth, hard, nonabsorbent surfaces.

Exception: Dwelling units. Within dwelling units, floor registers may be located in a room or space containing water closets, but shall be located a minimum of 3 feet from the water closet.

R 408.30923a Equipment installation.

Rule 923a. Sections ~~301.10.1~~ ~~301.7.1~~ is added to the code and section 309.1 of the code is amended to read as follows:

~~301.7.1~~**301.10.1.** Electrical disconnect. The mechanical contractor shall ensure that all equipment ~~have~~**has** an electrical disconnect switch on, or immediately adjacent to, the equipment.

309.1. **Occupiable space heating** Heating system. ~~Each dwelling unit~~ **Interior spaces intended for human occupancy** shall be provided with heating facilities capable of maintaining a minimum room temperature of 68 degrees Fahrenheit at a point 3 feet above the floor and 2 feet from exterior walls ~~in all habitable rooms~~ at the design temperature. The installation of ~~1 or more~~ portable space heaters shall not be used to achieve compliance with this section.

Exception: Interior spaces where the primary purpose is not associated with human comfort.

R 408.30927a ~~Roofs and elevated structures.~~**Equipment and appliances on roofs or elevated structures.**

Rule 927a. ~~Sections Section 306.5 and 306.5.1~~ of the code ~~are is~~ amended to read as follows:

306.5 Equipment and appliances on roofs or elevated structures. ~~Where equipment and appliances requiring access are installed on roofs or elevated structures at a height that requires access exceeding 16 feet (4877 mm), such access shall be provided by a permanent approved means of access, the extent of which shall be from grade or floor level to the equipment and appliances' level service space.~~ **Where equipment or appliances requiring access are located on an elevated structure or the roof of a building so that personnel will have to climb higher than 16 feet above grade to access this equipment or appliances, an interior or exterior means of access shall be provided.** Such access shall not require climbing over obstructions greater than 30 inches (762 mm) high or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33-percent slope). **Such access shall not require the use of portable ladders.** ~~Where access involves obstructions greater than 30 inches in height, permanent ladders or equivalent shall be provided on both sides requiring access in accordance with the ladder requirements of this section.~~ **Where access involves climbing over parapet walls, the height shall be measured to the top of the parapet wall.**

Permanent ladders installed to provide the required access shall comply with all of the following minimum design criteria:

- (1) The side railing shall extend above the parapet or roof edge not less than 30 inches (762 mm).
- (2) Ladders shall have rung spacing not to exceed 14 inches (356 mm) on center. **The uppermost rung shall be a maximum of 24 inches below the upper edge of the roof hatch, roof, or parapet, as applicable.**
- (3) Ladders shall have a toe spacing not less than 6 inches deep.
- (4) There shall be a minimum of 18 inches (457 mm) between rails.
- (5) Rungs shall have a minimum 0.75-inch (19 mm) diameter and be capable of withstanding a 300-pound (136.1 kg) load.
- (6) Ladders over 30 feet (9144 mm) in height shall be provided with offset sections and landings capable of withstanding 100 pounds (488.2 kg/m²) per square foot. Landing dimensions shall be not less than 18 inches (457 mm) and not less than the width of the ladder served. A guard rail shall be provided on all open sides of the landing.
- (7) **Climbing clearance.** The distance from the center line of the rungs to the nearest permanent object on the climbing side of the ladder shall be a minimum of 30 inches measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs, except where cages or wells are installed.
- (8) **Landing required.** A ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches by 30 inches centered in front of the ladder.
- (79) ~~Ladders shall be protected against corrosion in accordance with section 104.1 of the code by approved means.~~
- (10) **Access to ladders shall be provided at all times.**

Catwalks installed to provide the required access shall be not less than 24 inches (610 mm) wide and shall have railings as required for service platforms.

Exception 1: An approved, permanent building mounted ladder receiver which prevents the ladder from sliding sideways off the building or slipping backward and meets the ladder safety standard of OSHA regulations (Standard - 29 CFR) Ladders. - 1926.1053 (b)(1) may be installed on buildings under 20 feet in height above grade to access such equipment or appliances.

Exception 2: This section shall not apply to group R-3 occupancies.

306.5.1 Sloped roofs. Where appliances are installed on a roof having a slope of 3 units vertical in 12 units horizontal or greater and having an edge more than 30 inches above grade at such edge, a level platform shall be provided on each side of the appliance to which the access is required for service, repair, or maintenance. The platform shall not be less than 30 inches in any dimension and shall be provided with guards. The guards shall extend not less than 42 inches above the platform, shall be constructed so as to prevent the passage of a 21-inch-diameter sphere, and shall comply with the loading requirements for guards specified in the Michigan building code. Access to appliances shall not require climbing over obstructions greater than 30 inches (762-mm)-high or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal permanent ladders, or equivalent, shall be provided on both sides requiring access in accordance with the ladder requirements of section 306.5.

Exception: This section shall not apply to group R-3 occupancies.

R 408.30928a Solid fuel burning equipment.

Rule 928a. Sections 901.5, ~~928.0~~ **929.0** and ~~928.1~~ **929.1** are added to the code to read as follows:

901.5 Solid fuel burning equipment. Solid fuel burning equipment shall be listed and labeled in accordance with section 301.4, installed in accordance with the ~~manufacturers~~ **manufacturer's** installation instructions, and NFPA ~~244-2006~~ **211-2010** requirements.

~~928.0~~ **929.0** Solid fuel hydronic heaters.

~~928.1~~ **929.1** Solid fuel hydronic heaters must be listed and labeled, or approved by the code official in accordance with the Michigan mechanical code section 105, or have certificate of acceptability issued by the Michigan construction code commission.

R 408.30935a ~~Ventilation requirements for commercial~~ **Commercial kitchens; ventilation.**

Rule 935a Sections 506.1, 506.3.6, 507.1, 507.2.2, and 507.9, of the code are amended and sections 507.16.1.1 is added to the code to read as follows:

506.1. Ventilation requirements for commercial kitchens. Commercial kitchen hood ventilation ducts and exhaust equipment shall be in compliance with NFPA-96- ~~2008~~ **2011**, the standard of the national fire protection association listed in chapter 15.

506.3.6 Grease duct clearances. Grease duct systems and exhaust equipment serving a type I hood shall have clearances to combustibles as required by NFPA 96- ~~2008~~ **2011**, as listed in chapter 15.

Exception: Listed and labeled factory-built commercial kitchen grease ducts and exhaust equipment installed in accordance with section 304.1 of the code.

507.1 General. Commercial kitchen exhaust hoods shall comply with the requirements of this section and NFPA ~~96-2008~~ **96-2011**, as listed in chapter 15. Hoods shall be type I or type II and shall be designed to capture and confine cooking vapors and residues.

Exceptions:

1. Factory-built commercial exhaust hoods which are tested in accordance with UL 710-~~2004~~ **2007**, as listed in chapter 15, listed, labeled, and installed in accordance with section 304.1 shall not be required to comply with sections 507.4, 507.7, 507.11, 507.12, 507.13, 507.14, and 507.15 of the code.

2. Factory-built commercial cooking recirculating systems which are tested in accordance with UL 710B- ~~2004~~ **2011** or UL 197SB-2003, as listed in chapter 15, listed, labeled, and installed in accordance with section 304.1 of the code shall not be required to comply with sections 507.4, 507.5, 507.7, 507.12, 507.13, 507.14, and 507.15 of the code. **Spaces in which these systems are located shall be considered to be kitchens and shall be ventilated in accordance with table 403.3. For the purpose of determining the floor area required to be ventilated, each individual appliance shall be considered as occupying not less than 100 square feet.**

3. Net exhaust volumes for hoods may be reduced during no-load cooking conditions, where engineered or listed multi-speed or variable-speed controls automatically operate the exhaust system to maintain capture and removal of cooking effluents as required. **Reduced volumes shall not be below that required to maintain, capture, and remove effluents from the idle cooking appliances that are operating in a standby mode.**

507.9. Clearances for type I hood. A type I hood shall be installed with clearances from combustibles as required by NFPA 96- ~~2008~~ **2011** as listed in chapter 15.

507.16.1.1 Smoke test. The field test identified in section 507.16.1 of the code shall be conducted in accordance with the smoke testing procedures established by the bureau of construction codes, which are available at no cost from the bureau's web site at www.michigan.gov/bcc, or, from the Michigan Department of ~~Energy, Labor, and Economic Growth~~ **Licensing and Regulatory Affairs**, Bureau of Construction Codes, 2501 Woodlake Circle, Okemos, Michigan, 48864.

R 408.30945a Ventilation; exhaust.

Rule 945a. Sections ~~504.2.1.1~~ **501.3.1**, 504.4, and 504.8 of the code are amended to read as follows:

501.2.1.1 Exhaust discharge. Exhaust air shall not be directed onto walkways. Exhaust openings shall not terminate within 3 feet of a ventilated section in a soffit.

504.4 Exhaust installation. Dryer exhaust ducts for clothes dryers shall terminate on the outside of the building, shall not terminate within 3 feet of a ventilated section in a soffit, and shall be equipped with a back draft damper. Screens shall not be installed at the duct termination. Ducts shall not be connected or installed with sheet metal screws or other fasteners that will obstruct the exhaust flow. Clothes dryer exhaust ducts shall not be connected to a vent connector, vent, or chimney. Clothes dryer exhaust ducts shall not extend into or pass through ducts or plenums.

504.8 Common exhaust systems for clothes dryers located in multistory structures. Where a common multistory duct system is designed and installed to convey exhaust from multiple clothes dryers, the system shall be engineered by a registered design professional and installed in accordance with the Michigan building codes.

R 408.30946 Alterations and repairs.

Rule 946. Section ~~1001.2~~ **1001.3** is added to the code to read as follows:

~~1001.2~~ **1001.3**. Alterations and repairs to boilers shall be in accordance with the Michigan boiler act, 1965 PA 290, MCL 408.751 to MCL 408.776.

R 408.30947 Standards.

Rule 947. Section 1004.1 of the code is amended to read as follows:

1004.1. (1) Oil fired boilers and their control systems shall be listed and labeled in accordance with UL726-~~1995~~ **(R2011)**.

(2) Gas fired boilers and their control systems shall be listed and labeled in accordance with ANSI Z21.13-~~2010~~ or UL795-~~2006~~.

(3) Electric boilers and their control systems shall be listed and labeled in accordance with UL834.

(4) Boilers shall be installed in accordance with the requirements of ASME CSD-1-~~2009~~ **or as applicable in accordance with the requirements of the NFPA installation standards and as applicable constructed to ASME boiler and pressure vessel code, sections I or IV; NFPA 8501; NFPA 8502 or NFPA 8504 as referenced in chapter 15.**

(5) Boiler controls and safety devices shall be assembled, installed, maintained, and operated in accordance with ASME CSD-1.

(6) Solid-fuel-fired boilers shall be listed and labeled in accordance with UL 2523-2009.

R 408.30947a Boiler connections.

Rule 947a. Section 1005.1 of the code is amended to read as follows:

1005.1 Valves. Every boiler or modular boiler shall have a shutoff valve in the supply and return piping. For multiple boiler or multiple modular boiler installations, each boiler or modular boiler shall have individual shutoff valves in the supply and return piping.

Exception: Shutoff valves are not required in a system having a single low-pressure steam boiler. When a boiler is located above the system and can be drained without draining the system, stop valves may be eliminated.

R 408.30948 Boiler safety devices.

Rule 948. Section 1006.6.1 is added and 1006.7 of the code is amended to read as follows:

1006.6.1 Safety and safety relief inlets. The opening or connection between the boiler and any safety or safety relief valve shall have at least the area of the valve inlet.

1006.7. Boilers shall be equipped with controls and limit devices as required by ASME, CSD-1-2009 and the manufacturer's installation instructions and the conditions of the listing. All controls and safety devices shall be tested and maintained in accordance with ASME code CSD-1-2009.

R 408.30948a Gauges.

Rule 948a. Sections 1010.1 and 1010.2 are amended and 1010.1.2 of the code is added to read as follows:

1010.1 Hot water boiler gauges. Every hot water boiler shall have a pressure gauge and a temperature gauge, or a combination pressure and temperature gauge. The scale on the dial of the pressure or altitude gage shall be not less than approximately 1-1/2 nor more than approximately 3-1/2 the pressure at which the safety relief valve is set.

1010.1.2 . Pressure and temperature gauge. A thermometer shall be installed and may be in combination with the pressure gauge. The thermometer shall at all times indicate the temperature of the water in the boiler or near the outlet.

1010.2 Steam boiler gauges. Every steam boiler shall have a water-gauge glass and a pressure gauge. The scale on the dial of the gauge shall be graduated to not less than 30 psi and not more than 60 psi.

R 408.30995a Automatic sprinkler systems generally.

Rule 995a. Sections 1600.0, 1600.1, and 1600.2 are added to the code to read as follows:

1600.0. Automatic sprinkler systems; fire suppression systems.

1600.1 Scope. The provisions of this article provide the minimum requirements for the design and installation of automatic sprinkler systems in all occupancies, except for 1- and 2-family dwellings.

1600.2. Installations. Installations shall be in compliance with the provisions of the code. Fire suppression systems shall be in compliance with the provisions of the building code and shall be installed in accordance with the code and NFPA-13- 2007~~2010~~, NFPA-13D- 2007~~2010~~, NFPA-13R- 2007 ~~2010~~, and NFPA-24- 2007~~2010~~ , installation of sprinkler systems, installation of sprinkler systems in 1- and 2-family dwellings and manufactured homes, installation of sprinkler systems in residential occupancies up to 4 stories in height, and standards of the national fire protection association listed in chapter 15.

R 408.30996 Process piping.

Rule 996. Sections 1700.0 and 1700.1 are added to the code to read as follows:

1700.0. Process piping.

1700.1 Scope. The provisions of this chapter provide the minimum requirements for the design and installation of process piping systems pursuant to ASME B31.3-2010

1700.2 Process piping. Piping which is not part of a refrigeration system or part of a system designed to provide air conditioning. Process piping includes pipes which transfer chemicals and other fluids, gases, or vapors for systems other than air conditioning systems as covered by the Michigan mechanical code.

NOTICE OF PUBLIC HEARING

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF CONSTRUCTION CODES
NOTICE OF PUBLIC HEARING

Michigan Part 8- Electrical Code Rules (ORR# 2011-040 LR)
State Boundary Commission General Rules (ORR# 2011-041 LR)
Michigan Part 9a.-Mechanical Code (ORR# 2012-010 LR)

The Department of Licensing and Regulatory Affairs, Bureau of Construction Codes, will hold a public hearing on Thursday, February 28, 2013, at 9:00 a.m. in Conference Room 3, 2501 Woodlake Circle, Okemos, MI 48864. The Part 8 Electrical Code rules are proposed to be effective 30 days after filing with the Secretary of State. The State Boundary Commission General rules are proposed to be effective 30 days after filing with the Secretary of State. The Part 9a. Mechanical Code is proposed to be effective 120 days after filing with the Secretary of State.

The public hearing is being held to receive public comments on the proposed amendments to the administrative rules noted above. Testimony will be taken for each rule set in the order the rules are listed above. Individuals who are not present during testimony for a particular rule set will be provided an opportunity to testify after final testimony on the Michigan Part 9a Mechanical Code.

The proposed revisions to Part 8 Electrical rules will adopt the 2011 edition of the National Electrical Code, a national industry standard, and provide Michigan-specific amendments. The hearing is being conducted by the Department under the authority of Section 4 of 1972 PA 230, MCL 125.1504, and Executive Reorganization Order Nos. 2003-1, 2008-4 and 2011-4, MCL 445.2011, 445.2025, and 445.2030.

The proposed revisions to the State Boundary Commission General rules will streamline the procedures specified in the rules that the State Boundary Commission follows to process petitions for incorporation or consolidation as well as petitions or resolutions for annexation and to reflect revisions to the State Boundary Commission Act. The hearing is being conducted by the Department under the authority of Section 4 of 1968 PA 191, MCL 123.1004 and Executive Reorganization Order Nos. 1973-2, 1980-1, 1996-2, 2003-1, 2008-4 and 2011-4, MCL 299.11, 16.732, 445.2001, 445.2011, 445.2025 and 445.2030.

The proposed Mechanical rules will adopt the 2012 edition of the International Mechanical Code with amendments, deletions, and additions deemed necessary for use in Michigan. The hearing is being conducted by the Department under the authority of Section 4 of 1972 PA 230, MCL 125.1504 and Executive Reorganization order Nos. 2003-1, 2008-20 and 2011-4, MCL 445.2011, 445.2025 and 445.2030.

The proposed rules will be published in the February 1, 2013 *Michigan Register*. Copies of the proposed Michigan amendments to the Michigan Electrical Code rules, the State Boundary Commission General rules and the Michigan Mechanical Code rules may be obtained for a fee of \$3.00 for each rule set by submitting a check or money order made payable to the State of Michigan, to the Bureau at the address below. You may download a free copy of the proposed amendments by visiting the Bureau's

website at www.michigan.gov/bcc. The amendments are located under “What’s New” on the front page of the website.

Oral or written comments may be presented in person at the hearing on February 28, 2013, or submitted in writing by mail, email, or facsimile no later than 5:00 p.m., February 28, 2013 to the address stated below. If your presentation at the public hearing is in written form, please provide a copy to the Rules Analyst, at the conclusion of your testimony at the hearing.

Department of Licensing and Regulatory Affairs
Bureau of Construction Codes
Office of Administrative Services
P.O. Box 30254
Lansing, MI 48909
Telephone (517) 241-6312
Facsimile (517) 241-9570
matsumotos@michigan.gov

The meeting site and parking is accessible. Individuals attending the meeting are requested to refrain from using heavily scented personal care products, in order to enhance accessibility for everyone. People with disabilities requiring additional services (such as materials in alternative format) in order to participate in the meeting should call Hillary Cushman at (517) 335-2972 (voice) at least 14 days prior to the hearing. LARA is an equal opportunity employer/program.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES LICENSING AND
REGULATORY AFFAIRS**

BUREAU OF SAFETY AND REGULATION DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS COMMISSION

Proposed Draft December 21, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of **licensing and regulatory affairs** ~~consumer and industry services~~ by sections 16 and 21 of **1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030** ~~Act No. 154 of the Public Acts of 1974, as amended, and Executive Reorganization Order No. 1996-2, being §§408.1016, 408.1021, and 445.2001 of the Michigan Compiled Laws~~)

R 408.14451 and R 408.14476 of the Michigan Administrative Code are amended as follows:

PART 44. FOUNDRIES

R 408.14451 Melting furnace pits.

Rule 4451. A melting furnace pit shall comply with all of the following provisions:

- (a) Be free of water during operation.
- ~~-(b) Be enclosed with standard railing and toeboard as specified by general industry safety standard, Part 2. Floor and Wall Openings, Stairways, and Skylights, being R 408.10201 et seq., of the Michigan Administrative Code.~~
- (b) (e)** Be clear of employees during tapping or pouring.

R 408.14476 Cleaning castings in enclosures.

Rule 4476. (1) Sand or abrasive cleaning shall be done in an enclosed machine or room which shall be dust tight or have exhaust systems ~~as prescribed by the state department of public health.~~

(2) When a core is blown out of a casting, it shall be done in an enclosure equipped with an exhaust system ~~as prescribed by the state department of public health.~~

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~CONSUMER AND INDUSTRY SERVICES~~ LICENSING AND
REGULATORY AFFAIRS**

~~BUREAU OF SAFETY AND REGULATION~~ DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS ~~COMMISSION~~

Proposed Draft December 21, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of **licensing and regulatory affairs** ~~consumer and industry services~~ by sections 16 and 21 of **1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030** ~~Act No. 154 of the Public Acts of 1974, as amended, and Executive Reorganization Order No. 1996-2, being §§408.1016, 408.1021, and 445.2001 of the Michigan Compiled Laws~~)

R 408.15712, R 408.15713, R 408.15717, R 408.15721, R 408.15723, R 408.15725, R 408.15726, and R 408.15739 of the Michigan Administrative Code are amended as follows:

PART 57. OIL AND GAS DRILLING AND SERVICING OPERATIONS

R 408.15712. Personal protective equipment and methods.

Rule 5712. (1) The requirements for the providing and use of personal protective equipment are found in general industry safety standard, Part 33. Personal Protective Equipment, being R 408.13301 et seq. of the Michigan Administrative Code.

(2) **An employee shall not wear loose** ~~Loose~~ or poorly fitted clothing ~~shall not be worn.~~

(3) An employee shall not work in clothing that is saturated with any flammable, hazardous, or irritating substance. This clothing shall be immediately removed and replaced with suitable clothing after the affected skin area has been thoroughly washed and treated, if necessary.

(4) While on the worksite, an employee shall not wear jewelry or other adornments which are prone to snagging or hanging and causing injury.

(5) An employee whose length of hair poses a hazard on the worksite shall keep his or her hair contained in a suitable manner while working. Hair and beard styles shall not interfere with the wearing of respiratory protective equipment.

(6) If chemicals harmful to the eyes are being used, appropriate personal protective equipment and eye wash stations shall be provided to the employee, at no expense to the employee, and shall be used.

(7) ~~If it is necessary to provide a respirator, it shall be as prescribed by the department of public health rule OH 3502.~~

R 408.15713. Safety belt, lifeline, and lanyard use.

Rule 5713. (1) An employee, when engaged in work 10 feet or more above the rig floor or other working surfaces, shall wear a safety belt or harness with an attached lanyard, except during rig up and rig down.

(2) A safety belt, safety harness and any lifeline and lanyard shall be used only for safeguarding the employee.

(3) A safety belt, safety harness, lifeline, or lanyard subjected to in-service shock loading, rather than static loading, shall be removed from service and shall not be used again for employee protection.

~~(4) The safety belt, safety harness, lifeline, and lanyard shall be provided, constructed, inspected, and maintained as prescribed in general industry safety standard, Part 33. Personal Protective Equipment, being R 408.13301 et seq. of the Michigan Administrative Code.~~

(4) (5) When working in the mast or derrick, an employee shall be provided with safety belt or safety harness and a lanyard or lifeline which is adjusted to allow the minimum of drop in case of a fall.

R408.15717. Wells containing hydrogen sulfide.

Rule 5717. (1) Drilling and ~~servicing~~ **Servicing** of wells shall be as prescribed in the American Petroleum Institute document, RP49, reissued 1975, Recommended Practices for Safe Drilling of Wells Containing Hydrogen Sulfide. This document is incorporated herein by reference. The API document may be inspected at the **Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143** ~~Lansing office of the department consumer and industry services.~~ This information may be purchased at a cost of **\$125.00** ~~\$1.00~~ from **IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>** ~~American Petroleum Institute, 2101 L. St., N.W., Washington D.C. 20037, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

(2) Where hydrogen sulfide or any other unusually hazardous gas is known or suspected to exist, the employer shall advise the employees of the possible exposure involved and shall provide training and personal protective equipment as required in **Rule rule 5711 of on** this part.

(3) Where it is not necessary to maintain a cellar on wells producing hydrogen sulfide, the cellar shall be filled to eliminate the hazard of accumulation of hydrogen sulfide gas.

R 408.15721. Construction of derricks and masts.

Rule 5721. (1) A derrick or mast manufactured after November 21, 1979, shall have a permanent nameplate which is attached to the structure and which indicates **all of** the following information:

(a) Name of manufacturer.

(b) Model number and serial number.

(c) Rating, including maximum static hook load capacity with the number of lines.

(d) Whether guying is applicable and the recommended guying pattern. If guying requirements do not appear on the nameplates, the derrick or mast shall be guyed as prescribed by API SPEC 4E-1974, entitled "Specification for Drilling and Well Servicing Structures," which is herein adopted by reference and may be inspected at the **Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143** ~~Lansing office of the department of consumer and industry services.~~ The specifications may be purchased at a cost of **\$125.00** ~~\$1.50~~ from **IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>** ~~the American Petroleum Institute, 2101 L.St. N.W., Washington, D.C. 20037, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

- (2) An employee qualified in procedures for raising and lowering the mast shall be in charge of raising and lowering operations and shall do both of the following:
 - (a) Visually inspect the raising or lowering mechanism.
 - (b) Assure that all tools and materials which are not secured are removed from the mast.
- (3) Only an employee required to carry out the operation shall be allowed in or under the mast unless it is in the fully raised or lowered position.
- (4) The mast shall be level and properly positioned before raising, lowering, scoping the structure, or tightening guylines.
- (5) Before imposing any load on a derrick or mast, all required load guys shall be properly tightened.
- (6) Mast crown sheaves shall be guarded to prevent the hoisting line from being displaced from the grooves during all operations.
- (7) A derrick board or other platform shall be constructed, maintained, and adequately secured to the structure to withstand the weight of employees and other stresses placed upon the platform.
- (8) An unguarded opening large enough to permit a person to fall through shall not exist between the beams or main supports of the crown block.
- (9) If bumperblocks are used under the crown block beam, a safety cable or strap shall be fastened along their full length with both ends secured to the derrick.
- (10) All counterweights above the rig floor, when not fully encased or running in permanent guides, shall have a safety chain or wire rope safety line anchored to the derrick or mast to secure them. The chain and wire rope shall be capable of sustaining the drop load and shall limit the drop counterweight to not less than 7 feet from the floor.
- (11) Load-bearing hydraulic jacks shall have a safety lock device, double valves, or the equivalent..
- (12) A derrick, mast, and auxiliary parts shall be maintained in a safe condition.

R 408.15723. Traveling blocks and crown blocks.

Rule 5723. (1) A traveling block and its component parts shall be designed, constructed, and maintained as prescribed in API SPEC 8A-1976, entitled "Specifications for Drilling and Production Hoisting Equipment," which is adopted herein by reference and may be inspected at the **Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143** ~~Lansing office of the department of consumer and industry services.~~ The specifications may be purchased at a cost of **\$125.00** ~~\$1.50~~ from **IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>** ~~American Petroleum Institute, 2101 L St., N.W., Washington, D.C. 20037, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

- (2) A traveling block, crown block, or related equipment shall not be subjected to any load in excess of its designed rating.
- (3) A hook for use with a traveling block to which equipment is either directly or indirectly attached shall be equipped with safety latch to prevent accidental release of the load.
- (4) A traveling block exposed to contact shall be guarded at the running nip point of the sheave and shall not be operated unless the guard is in place.

R 408.15725. Electrical installations.

Rule 5725. (1) Except as required in this rule, electrical installations and equipment shall be as prescribed in the national electrical code, NFPA 70-1981, which is adopted herein by reference and may be inspected at the **Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143** ~~Lansing office of the department~~

~~of consumer and industry services.~~ This code may be purchased at the cost of ~~\$27.00~~ ~~\$11.50~~ from the National Fire Protection Association, Batterymarch Park, **P.O. Box 9101**, Quincy, Massachusetts 02269-9101, **or via the internet at web-site: www.nfpa.org** ~~or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~ Electrical equipment such as lighting, power tools, and other electrical motors used in hazardous locations shall be designed for such locations and where practicable, listed by a nationally recognized testing laboratory. All wiring components and electrical equipment shall be maintained in accordance with the original design. Because of exposure to vibration and frequent rig moves, maximum use shall be made of flexible electrical cord intended for hard usage and with inherent resistance to dampness and petroleum products.

(3) On a land location, an engine-driven light plant or generator shall not be located closer to the wellbore than the nearest engine operating the rig.

(4) A light plant generator shall have a overload safety device to provide protection from arcing in a hazardous area or from a burnout of the generator.

(5) Rig lighting equipment, except that used in a cellar, shall be classified as class 1, division 2.

(6) Cellar lighting equipment shall be classified class 1, division 1.

(7) The following area classifications shall determine the type of maintenance requirements for electrical equipment on the rig under normal operating conditions. When special service operations are being performed, the requirements for electrical installations under the conditions of service listed in subdivisions (a) to (h) of this subrule shall be followed:

(a) When the derrick or mast is not enclosed or is equipped with a windbreak (open top and V-door) and the substructure is open to ventilation, the areas shall be classified as shown in figure 1 and shall provide not less than 12 complete air changes per hour.

(b) If the rig floor and substructure are enclosed and as such, provide not less than 12 complete air changes per hour, the areas shall be classified as shown in figure 2.

(c) Where appropriate, the area surrounding a drilling fluid tank located outdoors shall be provided with ventilation of not less than 12 complete air changes per hour and shall be classified as shown in figure 3.

(d) If the drilling fluid tank is enclosed or located so as to provide not less than 12 complete air changes per hour, the areas shall be classified as shown in figure 4.

(e) The areas surrounding a shale shaker with ventilation of not less than 12 complete air changes per hour shall be classified as shown in figure 5.

(f) When the shale shaker is enclosed, the area within the enclosure shall be classified as class 1, division 1.

(g) If an open fluid ditch or trench is used to connect between drilling fluid tanks, or between the drilling fluid tank and shale shaker, or open drilling fluid pits, and if ventilation of not less than 12 complete air changes per hour is provided the areas shall be classified as shown in figure 3 for tanks.

(h) The area surrounding the drilling fluid pump shall not be considered hazardous unless it is so classified due to the proximity of another hazardous component or facility.

(8) Motors and other electrical equipment shall be classified as prescribed in figures 1 to 5 of this rule.

(9) Direct current (DC) rotary, draw works, cathead, and pump motors in a classified area shall have an enclosed cooling system or shall be purged with air from a safe source. Air units supplying purged air shall be located at the input end of the system to provide positive pressure on the ducting and motors.

(10) All electrical extension cords shall be properly insulated with both male and female plugs, and the cord shall be in good condition.

(11) Lamps and reflectors shall be kept clean to provide illumination.

(12) Figures 1 to 5 read as follows:

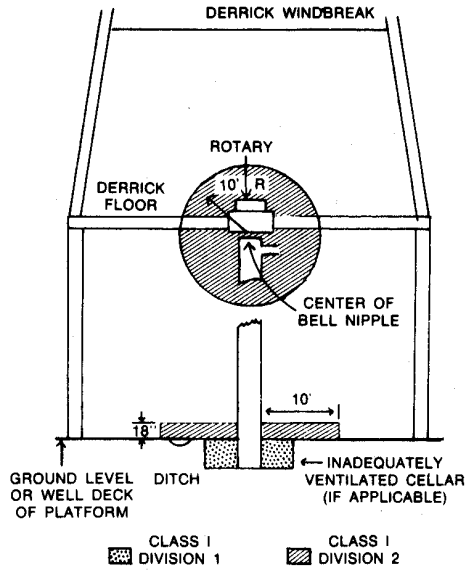


FIGURE 1
DERRICK AND SUBSTRUCTURE
WITH ADEQUATE VENTILATION
(OPEN TOP AND V-DOOR AREA)

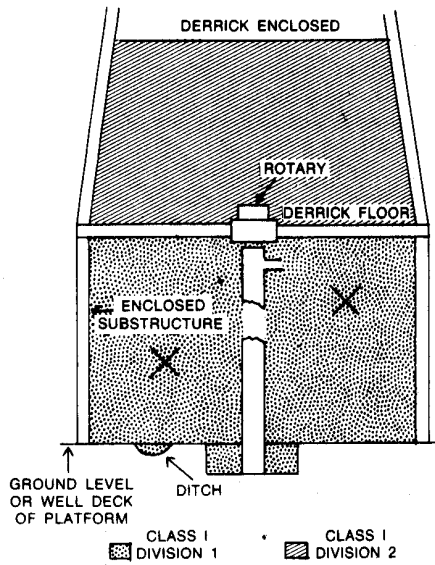


FIGURE 2
ENCLOSED DERRICK (OPEN TOP)
INADEQUATELY VENTILATED
SUBSTRUCTURE

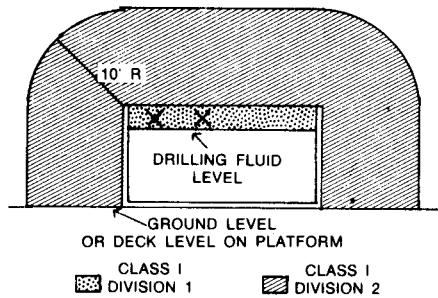


FIGURE 3
DRILLING FLUID TANK OR OPEN SUMP
WITH ADEQUATE VENTILATION

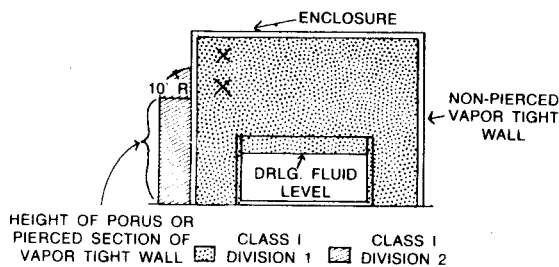


FIGURE 4
DRILLING FLUID TANK OR OPEN SUMP
IN AN ENCLOSURE

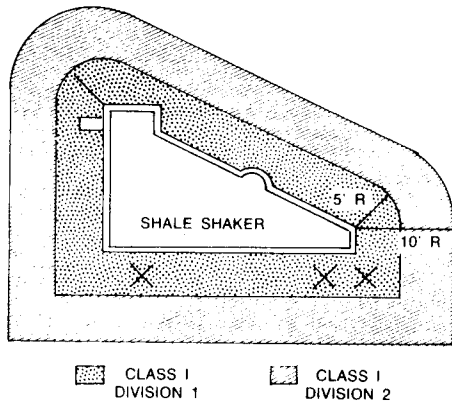


FIGURE 5
VIBRATING SHALE SHAKER WITH ADEQUATELY
VENTILATED AREA

R 408.15726. Blowout prevention equipment.

Rule 5726. (1) Before drilling out under surface casing, blowout preventing equipment shall be installed and maintained throughout the drilling operation.

(2) The blowout prevention equipment shall be as prescribed in the API RP53-1976 document entitled "Recommended Practices for Blowout Prevention Equipment Systems," which is adopted herein by reference and may be inspected at the **Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143** Lansing office of the department of Consumer and Industry Services. This information may be purchased at the

cost of ~~\$125.00~~ \$2.50 from **IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>** ~~the American Petroleum Institute, 2101 L St., N.W., Washington, D.C. 20037, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

- (3) Where a ram-type preventer is used, it shall contain pipe rams to enable closure on the pipe being used.
- (4) The choke line and kill line shall be anchored, tied, or otherwise secured to prevent whipping under pressure surges.
- (5) While in service, blowout prevention equipment shall be inspected daily and a preventer mechanical test shall be performed daily to ~~ensure~~ ~~insure~~ that the preventers will function properly.
- (6) A pipe fitting, valve, or union placed on or connected with blowout prevention equipment, well casing, casinghead, drill pipe, or tubing shall have a working pressure rating suitable for the maximum anticipated well surface pressure.
- (7) Pressure testing of each component of the blowout preventer equipment shall be conducted before drilling out any string of casing, except conductor pipe. Drilling shall not proceed until blowout prevention equipment is found, upon testing, to be serviceable.
- (8) If a blind ram is closed for any purpose, the valve on the choke line or relief line below the blind ram shall be opened before opening the ram to bleed off any pressure.
- (9) At least 1 person who is capable of operating blowout prevention equipment shall be on the well site during well drilling operations.

R 408.15739. Pressure equipment.

Rule 5739. (1) ~~An air receiver shall be designed, installed and used as prescribed in MIOSHA standard 1910.169, Air Receivers, which was adopted by reference by section 14 of Act no. 154 of the Public Acts of 1974, as amended, being R 408.1014 of the Michigan Compiled Laws.~~

- ~~(2)~~ A relief valve discharge shall be located and anchored so as to prevent a hazardous condition due to sudden discharge or piping movement.
- ~~(2)~~ ~~(3)~~ In normal operation, pumps, piping, hoses, valves, and other fittings shall not be operated at pressures greater than their rated working pressure and shall be maintained in good operating condition. Test pressures shall not exceed the design test pressure. Pumps, piping, hoses, and safety relief valves shall be of the design that meets the requirements of the operating conditions to be encountered.
- ~~(3)~~ ~~(4)~~ Repairs to electrically driven pressure equipment shall not be performed unless the energy source has been interrupted at the switch box and the control has been locked.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~CONSUMER AND INDUSTRY SERVICES~~ LICENSING AND
REGULATORY AFFAIRS**

~~BUREAU OF SAFETY AND REGULATION~~ DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS ~~COMMISSION~~

Proposed Draft December 21, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of **licensing and regulatory affairs** ~~consumer and industry services~~ by sections 16 and 21 of **1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030** ~~Act No. 154 of the Public Acts of 1974, as amended, and Executive Reorganization Order No. 1996-2, being §§408.1016, 408.1021, and 445.2001 of the Michigan Compiled Laws~~)

R 408.16211, R 408.16222, R 408.16227, and R 408.16236 of the Michigan Administrative Code are amended and R 408.16217 of the Code is rescinded as follows:

PART 62. PLASTIC MOLDING

R 408.16211 Employer responsibilities.

Rule 6211. (1) An employer shall provide training to an employee regarding the operating procedures, hazards, and safeguards of any assigned job.

(2) An employer shall not allow a machine to be operated which is not guarded as prescribed by this part or where the machine has a known defect which could affect the safety of an employee.

~~(3) An employer shall establish and maintain a lockout system as prescribed in subrule (3) of rule 6227.~~

R 408.16217 ~~Housekeeping.~~ **Rescinded.**

~~Rule 6217. Dust, scrap and spills of plastic materials shall be cleaned up and disposed of daily, or more often if it constitutes an employee hazard.~~

R 408.16222 Devices, guards, and protective equipment.

Rule 6222. (1) An electrical connection to a heated portion of a ram or screw cylinder shall be covered with a nonconducting guard or a grounded metal barrier to prevent contact with live terminals during normal operation of the machine.

(2) An exposed heated surface which could cause an injury shall be covered or guarded to prevent contact by an employee. This subrule does not apply to an area that requires accessibility, such as the adapter or grate on an extrusion machine.

(3) A machine that uses a blade or knife to cut plastic materials shall be guarded by a barrier, by position, or by a device to prevent contact between the operator and the machine.

~~(4) An employee, if exposed to the possibility of burns from a heated surface which cannot be covered or guarded, shall use heat-resistant personal protective equipment that is provided by the employer to the employee at no expense to the employee.~~

~~(5) The effectiveness of a safeguard shall not be diminished when auxiliary equipment is applied to or from a plastic molding machine.~~

R 408.16227 Lubrication and maintenance.

Rule 6227. (1) Lubrication of a machine shall be accomplished by 1 of the following:

(a) Manually when the machine can be shut off and locked out.

(b) An automatic pressure or gravity feed system.

(c) An extension pipe leading to an area outside of the guards or away from any hazard.

~~(2) In any case, R 408.10732, on lubrication of the general industry safety standards commission standard, Part 7. Guards for Power Transmission, shall apply.~~

(2) ~~(3)~~ Except as permitted in R 408.16234(10), each employee doing the work shall lock out the power source of the machine or equipment to be repaired or serviced if unexpected motion would cause injury. Any residual pressure which would be hazardous shall be relieved before and remain relieved during work by an employee doing the work.

R 408.16236 Vacuum and thermoforming.

Rule 6236. (1) An in-line automatic vacuum forming or trim press that is used to form or die cut vacuum-formed pieces shall have the point of operation and all moving parts guarded that would otherwise be exposed to contact.

~~(2) A punch press that is used to trim or die cut vacuum or thermoformed pieces shall be guarded as prescribed in general industry safety standard Part 23. Hydraulic Power Presses, being R 408.12301 et seq. of the Michigan Administrative Code, or Part 24. Mechanical Power Presses, being R 408.12401 et seq. of the Michigan Administrative Code.~~

(2) ~~(3)~~ A trim machine that uses a moving roll to supply pressure to the top die shall be provided with devices that are designed to keep both hands of the operator from the point of operation when the die closes.

(3) ~~(4)~~ Toggles on an automatic vacuum or thermoforming press shall be guarded by a barrier to prevent access to the pinch point.

(4) ~~(5)~~ A rotary vacuum forming machine shall be equipped with a 2-hand control device that is located and timed as prescribed by the provisions of R 408.16225(1)(b) and R 408.16226(7).

(5) ~~(6)~~ Where a hazard exists due to movement or heating, the area below the level of the lower mold on a vacuum forming machine shall be guarded.

(6) ~~(7)~~ An indexing machine shall be equipped with a stop control, such as a paddle switch, that is interlocked to stop the indexing operation. The stop control shall be located ahead of the first point of operation or pinch point beyond the work station.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~CONSUMER AND INDUSTRY SERVICES~~ LICENSING AND
REGULATORY AFFAIRS**

~~BUREAU OF SAFETY AND REGULATION~~ DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS ~~COMMISSION~~

Proposed Draft December 21, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of **licensing and regulatory affairs** ~~consumer and industry services~~ by sections 16 and 21 of Act No. 154 of **1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030** the Public Acts of 1974, as amended, and Executive Reorganization Order No. 1996-2, being §§408.1016, 408.1021, and 445.2001 of the Michigan Compiled Laws)

R 408.17211, R 408.17212, R 408.17213, R 408.17222, R 408.17225, R 408.17236, and R 408.17251 of the Michigan Administrative Code are amended and R 408.17227 of the Code is rescinded as follows:

PART 72. AUTOMOTIVE SERVICE OPERATIONS

R 408.17211 Employer responsibility.

Rule 7211. An employer shall **do all of the following**:

- (a) Provide training to an employee as to the hazards, safe operations of the assigned job, and applicable rules of this part.
- (b) Assure that job required tools, equipment, and the work area are maintained in a manner free of recognized hazards which would cause an injury.
- (c) Prohibit smoking, flames and sparks within 15 feet of where Class I flammable liquids are dispensed or used, unless separated by an approved wall. "No Smoking" signs shall be posted in these restricted areas.
- ~~(d) Maintain a copy of this part for employees' review.~~
- (d) (e)** Not circumvent, bypass, or make inoperative any safeguard unless required during servicing. The safeguard shall be replaced before resuming operation of the equipment.

R 408.17212 Employee responsibility.

Rule 7212. An employee shall **do all of the following**:

- ~~(a) Use personal protective equipment required by this part.~~
- (b)** Use tools and equipment only when authorized and trained in their use.

- (b) ~~(e)~~ Report employers' defective tools and equipment and hazardous conditions, when detected, to the supervisor.
- (c) ~~(d)~~ Maintain all personal tools, equipment, and work area in a manner to prevent a hazardous condition.
- ~~(e) Not smoke, create a spark or flame within 15 feet of an exposed flammable liquid or articles which have been wetted by a flammable liquid.~~
- ~~(f) Not circumvent, bypass or make inoperative any safeguard or tie down any control unless required during servicing. The safeguard shall be replaced before resuming operation of the equipment.~~
- (d) ~~(g)~~ Not use any device emitting air or other material in a manner which may inject a foreign material into a human body part.
- (e) ~~(h)~~ Use tools and equipment within their rated capacity.

R 408.17213 Personal protective equipment.

Rule 7213. (1) An employer shall provide and an employee shall wear eye protection in accordance with and as prescribed in the general industry safety standards commission standard, Part 33. Personal Protective Equipment, ~~being~~ R 408.13301 to R 408.13398 of the Michigan Administrative Code.

(2) Other personal protective equipment **including** such as, but not limited to, rubber gloves, aprons, boots, welding helmets and respirators shall be provided by the employer and worn by the employee to protect against the hazards of wet operations, welding and cutting, radiator cleaning, battery charging, and spray painting.

~~(3) When respiratory and hearing protection is required by a division of occupational health rule, the protection shall be provided by the employer and used by the employee.~~

(3) ~~(4)~~ Where corrosive liquids or other liquid materials that would be harmful to an employee are normally used and where an employee is exposed to splash of the materials, a readily accessible means of flushing with water shall be provided.

(4) ~~(5)~~ Cloth shoes, open sandals, and exposed rings and necklaces shall not be worn in the work area. A ring may be worn if covered by gloves or tape.

R 408.17222 Machinery and equipment installation.

Rule 7222. (1) Electrically powered machinery or equipment, other than double insulated equipment, shall be grounded.

(2) Nonportable machinery or equipment shall be secured to the floor, platform, table, or bench to prevent displacement or tipping.

(3) Machinery or equipment shall be equipped with a disconnect switch which shall be locked in the off position, unless the machinery or equipment is equipped with a plug-in cord which shall be disconnected and tagged, when the machinery or equipment is repaired or serviced if unexpected motion would cause injury.

~~(4) When electrical equipment is used within a spray booth and flammable materials are applied, the equipment shall be suitable for Class I, Division I hazards.~~

(4) ~~(5)~~ Machinery and equipment equipped with a foot control shall be provided with a cover or guard to prevent unintentional operation of the machinery or equipment where such operation would cause injury. The cover or guard shall be capable of withstanding a static load of 200 pounds without permanent deformation. The edges of the cover of the guard shall be rolled, broad, or covered to prevent injury or discomfort due to contact by the operator's foot or leg.

R 408.17225 Flammables, painting and coating

Rule 7225. (1) A Class I flammable solvent stored inside a building shall be in an approved safety can with an automatic closing cap and flame arrestor or original unopened container having a capacity of not more than 5 gallons. Quantities in excess of 5 gallons shall be stored as prescribed by flammable liquid regulations of the fire marshal promulgated under **1941 PA 207** ~~Act 207 of the Public Acts of 1941, as amended.~~

(2) When pouring a flammable solvent from 1 container to another, continuous contact between the containers shall be maintained or a bonding or grounding strap shall connect the containers.

(3) A Class I flammable solvent shall not be used for cleaning tools, parts, floors, or booths.

~~(4) Application by spraying of paint or coatings with a flammable ingredient to an area of more than 9 square feet shall be made within a booth or room constructed of noncombustible materials. The booth or room shall be ventilated as prescribed by a division of occupational health rule. Sparks, flame and spark producing equipment and smoking shall be prohibited in the booth or room and the area shall be posted "No Smoking."~~

(4) ~~(5)~~ When a flammable liquid is removed from a vehicle tank, an approved pumping device equipped with a ground strap shall be used.

R 408.17227 ~~Air conditioning and refrigeration servicing.~~ **Rescinded.**

~~Rule 7227. A check valve shall be used to prevent refrigerant system pressures from flowing back to the refrigerant charging container unless such containers are equipped with a pressure relief valve.~~

R 408.17236 Multi-piece rim wheels.

Rule 7236. (1) Wheel components shall not be interchanged except as permitted pursuant to the publication entitled "Multi-piece Rim/Wheel Matching Chart" or any other publication containing, at a minimum, the same instructions, safety precautions, and information as the charts identified in subrule (2) of this rule.

(2) The publications entitled "Multi-piece Rim/Wheel Matching Chart" and "Safety Precautions for Mounting and Demounting Tube/Type Truck Tires," as revised January 1978, which are hereby incorporated in these rules by reference, shall be accessible and available in the service area. These publications **are available from the United States Department of Labor, Occupational Safety and Health Administration, 315 West Allegan, room 315, Lansing, Michigan, 48917, or via the internet at website www.osha.gov, at no charge as of the time of adoption of these rules. These publications are also available for inspection at the Department of Licensing and Regulatory Affairs, MIOSHA Standards Section, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan, 48909-8143.** ~~may be purchased from the Superintendent of Documents, Government Printing Office, Washington DC 20402, or from the Safety Standards Division, Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, MI 48909, at a cost of \$2.00 and \$2.25 respectively.~~

(3) Mating surfaces of the rim gutter ring shall be free of any dirt, surface rust, scale, or rubber buildup before mounting and inflation.

(4) A tire shall be completely deflated by removal of the valve core before a wheel is removed from the axle in either of the following situations:

- (a) When the tire has been driven underinflated at 80% or less of its recommended pressure.
- (b) When there is obvious or suspected damage to the tire or wheel components.
- (5) Tires shall be inflated only when constrained by a restraining device, except when the wheel assembly is on a vehicle. Tires may be inflated without being constrained by a restraining device if remote control inflation equipment is used and no employees remain in the trajectory path during inflation in either of the following situations:
 - (a) Tires are underinflated, but have more than 80% of the recommended pressure.
 - (b) Tires are known not to have been run underinflated.
- (6) When a tire is being partially inflated without a restraining device for the purpose of seating the lock ring or to round out the tube, such inflation shall not exceed 3 psig (0.21 Kg/cm).
- (7) After tire inflation, the tire rim and rings shall be inspected while still constrained in the restraining device to assure they are properly seated and locked.

R 408.17251 Automotive lift; adoption by reference; auxiliary support device; permanent tag; lifting more than rated capacity prohibited.

Rule 7251. (1) An automotive lift installed, or the modification made, after the effective date of ~~in~~ this subrule, shall be as prescribed in sections 2, 3, and 5, except paragraph 5.7, of the ANSI Standard, B153.1-1974, Safety Requirements for the Construction, Care and Use of Automotive Lifts, which is incorporated herein by reference and may be inspected at the Lansing office of the department of **licensing and regulatory affairs** ~~consumer and industry services~~. This standard may be purchased at a cost of **\$20.00** ~~\$3.50~~ from **IHS Global, 15 Inverness Way East, Englewood, Colorado, 80112, USA, telephone number: 1-800-854-7179 or via the internet at website: <http://global.ihs.com>** ~~the American National Standards Institute, 11 West 42nd Street, New York, New York 10036, or from the Michigan Department of Consumer and Industry Services, 7150 Harris Drive, Box 30643, Lansing, Michigan 48909.~~

- (2) When an employee is required to work underneath a vehicle supported by a hydraulic lift, installed before the effective date of this part, the lift shall be used only when an auxiliary support device is engaged and capable of supporting the rated capacity of the lift.
- (3) An automotive lift purchased after December 28, 1974, shall have affixed to it a permanent tag showing the name of the manufacturer, model number, serial number, and rated capacity.
- (4) An automotive lift purchased before December 28, 1974, shall be equipped with a permanent tag showing the name of the manufacturer and its rated capacity. Where this information is not available, an outside source knowledgeable in automotive lifts shall be used to determine the rated capacity. The capacity shall be permanently labeled on the lift.
- (5) An automotive lift shall not be used to lift more than its rated capacity.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF ~~CONSUMER AND INDUSTRY SERVICES~~ LICENSING AND
REGULATORY AFFAIRS**

BUREAU OF SAFETY AND REGULATION DIRECTOR'S OFFICE

GENERAL INDUSTRY SAFETY STANDARDS COMMISSION

Proposed Draft December 21, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the director of the department of **licensing and regulatory affairs** ~~consumer and industry services~~ by sections 16 and 21 of **1974 PA 154, and Executive Reorganization Order Nos. 1996-2, 2003-1, 2008-4, and 2011-4, MCL 445.2001, 445.2011, 445.2025, and 445.2030** ~~Act No. 154 of the Public Acts of 1974, as amended, and Executive Reorganization Order No. 1996-2, being §§408.1016, 408.1021, and 445.2001 of the Michigan Compiled Laws~~)

R 408.17303, R 408.17310, R 408.17315, R 408.17318, and R 408.17320 of the Michigan Administrative Code are amended as follows:

PART 73. FIRE BRIGADES

R 408.17303 Definitions; A to E.

Rule 7303. (1) “Approved” means approval by the director of the department of **licensing and regulatory affairs** ~~consumer and industry services~~ or his or her duly designated representative.

(2) “Approved label” means a label or other identifying mark of a nationally recognized testing laboratory, such as underwriters laboratory, inc. or factory mutual research corp., that maintains a periodic inspection of production of labeled equipment or materials and by whose labeling indicates compliance with nationally recognized standards or tests to determine suitable usage in a specified manner.

(3) “Education” means the process of imparting knowledge or skill through systematic instruction. “Education” does not require formal classroom instruction.

(4) “Enclosed structure” means a structure that has a roof or ceiling and not less than 2 walls that may present fire hazards to employees, such as accumulations of smoke, toxic gases, and heat similar to those found in buildings.

R 408.17310 Employer responsibilities.

Rule 7310. (1) The employer having a fire brigade shall prepare and maintain a statement or written policy which establishes the existence of a fire brigade; and the basic organizational structure; the type, amount, and frequency of training to be provided to fire brigade members; the expected number of

members in the fire brigade; and the functions that the fire brigade is to perform at the workplace. The organizational statement shall be available for inspection by the director of the department of **licensing and regulatory affairs** ~~consumer and industry services~~ and by employees or their designated representatives.

(2) The employer shall assure that employees who are expected to do structural fire fighting are physically capable of performing duties which may be assigned to them during emergencies. The employer shall not permit employees with known heart disease, epilepsy, or emphysema to participate in fire brigade emergency activities unless a physician's certificate of the employees' fitness to participate in such activities is provided. For employees assigned to fire brigades before the effective date of this part, this rule is effective on September 15, 1985. For employees assigned to fire brigades after the effective date of this part, this rule applies.

(3) The employer shall provide training and education for all fire brigade members commensurate with those duties and functions that fire brigade members are expected to perform. Such training and education shall be provided to fire brigade members before they perform fire brigade emergency activities. Fire brigade leaders and training instructors shall be provided with training and education which is more comprehensive than that provided to the general membership of the fire brigade.

(4) The quality of training and education programs for fire brigade members shall be similar to the training and programs conducted by such fire training schools as any of the following:

- (a) Maryland fire and rescue institute.
- (b) Iowa fire service extension.
- (c) West Virginia fire service extension.
- (d) Georgia fire academy.
- (e) New York state department, fire prevention and control.
- (f) Louisiana state university firemen training program.
- (g) Michigan's Macomb community college, fire and emergency services training center.
- ~~(h) Michigan's Great Lakes fire training institute at Kellogg community college.~~
- (h) (i)** Washington state's fire service training commission for vocational education.

(5) The training and education program for oil refinery industry fire brigade members shall be similar in quality to the training and education program conducted by any of the following:

- (a) Macomb community college of Michigan, fire and emergency services training center.
- ~~(b) Michigan's Great Lakes fire training institute at Kellogg community college.~~
- (b) (c)** Texas A & M university.
- (c) (d)** Lamar university.
- (d) (e)** Reno fire school.
- (e) (f)** Delaware state fire school.

(6) Training for incipient fires shall be similar to the training provided by the fire training schools listed in subrule (4) of this rule or to the fire training for incipient fires offered by the school of labor and industrial relations at Michigan state university.

(7) An employer shall assure that training and education is conducted frequently enough to ensure that each member of the fire brigade is able to perform the member's assigned duties and functions satisfactorily and in a safe manner so as not to endanger fire brigade members or other employees. All fire brigade members shall be provided with training at least annually. In addition, fire brigade members who are expected to perform interior structural fire fighting shall be provided with an education session or training at least quarterly.

(8) An employer shall inform fire brigade members about special hazards, such as the storage and use of flammable liquids and gases, toxic chemicals, radioactive sources, and water reactive substances, to

which they may be exposed during a fire and other emergencies. The fire brigade members shall also be advised of any changes that occur in relation to the special hazards.

(9) An employer shall develop written procedures that describe the actions to be taken in situations involving special hazards and shall include these written procedures in the training and education program. An employer shall make the procedures available for inspection by fire brigade members.

R 408.17315 Foot and leg protection.

Rule 7315. (1) Foot and leg protection shall be provided and may be achieved by either of the following methods:

(a) Fully extended boots which provide protection for the legs.

(b) Protective shoes or boots worn in combination with protective trousers that meet the requirements of R 408.17316.

(2) An employer shall ensure that protective footwear meets the requirements of NFPA 1971-97, protective ensemble for structural fire fighting. NFPA 1971-97 is adopted by reference in these rules and may be purchased from the Michigan Department of **Licensing and Regulatory Affairs Consumer and Industry Services, MIOSHA Standards Section Division**, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909, or from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269-9101, (1-800-344-3555), **website: www.nfpa.org**, at a cost as of the time of adoption of these rules of **\$50.50** \$24.75.

R 408.17318 Head, eye, and face protection.

Rule 7318. (1) Head protection shall consist of a protective head device that has ear flaps and a chin strap which meet the performance, construction, and testing requirements of NFPA 1971-97, protective ensemble for structural fire fighting. NFPA 1971-97 is adopted by reference in R 408.17315(2).

(2) Protective eye and face devices that comply with R 408.13301 et seq. shall be used by fire brigade members when performing operations where the hazards of flying or falling materials are present and might cause eye and face injuries. Protective eye and face devices provided as accessories to protective head devices (face shields) are permitted if the devices meet the requirements of R 408.13301 et seq.

The provisions of R 408.13301 et seq. are available from the Michigan Department of **Licensing and Regulatory Affairs Consumer and Industry Services, MIOSHA Standards Section Division**, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909.

(3) Full facepieces, helmets, or hoods of breathing apparatus that meet the requirements of R 408.13301 et. seq. are acceptable as meeting the eye and face protection requirements of this part.

R 408.17320 Respiratory protection devices.

Rule 7320. (1) An approved self-contained breathing apparatus that has a full facepiece shall be provided to and worn by fire service personnel while working in atmospheres where toxic products of combustion or an oxygen deficiency may be present. The apparatus shall also be worn during emergency situations involving toxic substances. An employer shall ensure that respirators are provided to and used by fire brigade members and that the respirators meet the requirements of 29 C.F.R. 1910.134 and this rule.

(2) Self-contained breathing apparatus shall have a minimum service life rating of 30 minutes in accordance with the methods and requirements of the national institute for occupational safety and health (NIOSH) except for escape self-contained breathing apparatus (ESCBAs) used only for emergency purposes.

(3) All compressed air cylinders used with self-contained breathing apparatus shall meet department of transportation (DOT) requirements which are available from the Superintendent of Documents, U.S.

Government Printing Office, Washington, D.C. 20402 or the criteria of the national institute for occupational safety and health (NIOSH), Cincinnati Technical Center, 435 Elm Street, Suite 500, Cincinnati, Ohio 45202.

(4) Self-contained breathing apparatus shall be provided with an indicator that automatically sounds an audible alarm when the remaining service life of the apparatus is reduced to within a range of 20% to 25% of its rated service time.

(5) An employer shall ensure that self-contained breathing apparatus for use by fire service personnel is of the positive-pressure type. All breathing apparatus that is purchased after the effective date of these amendatory rules shall be in compliance with the national fire protection association standard NFPA 1981-87, open circuit self-contained breathing apparatus. NFPA 1981-87 is adopted by reference in these rules and is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269, (1-800-344-3555), **website: www.nfpa.org**, or from the Michigan Department of **Licensing and Regulatory Affairs Consumer and Industry Services, MIOSHA Standards Section Division**, P.O. Box 30643, Lansing, Michigan 48909, at a cost as of the time of adoption of these amendatory rules of **\$27.00** \$14.50.

(6) Subrule (5) of this rule does not prohibit the use of a self-contained breathing apparatus if the apparatus can be switched from a demand mode to a positive-pressure mode when fire service personnel are performing emergency operations. However, the apparatus shall be in the positive-pressure mode as required in Subrule (7) of this rule.

~~(7) Negative pressure self contained breathing apparatus which has a rated service life of more than 2 hours and which has a minimum protection factor of 5,000, as determined by an acceptable quantitative fit test performed on each individual, is acceptable for use only during interior structural fire fighting situations for which the employer demonstrates that long duration breathing apparatus is necessary. Quantitative fit test procedure shall be available for inspection by the director of the department of consumer and industry services or his or her authorized representative. Such negative pressure breathing apparatus will continue to be acceptable for 18 months after a positive pressure breathing apparatus that has the same or a longer rated service life is certified by the national institute for occupational safety and health (NIOSH). After the 18 month period, all self contained breathing apparatus used for long duration situations shall be of the positive pressure type.~~

PROPOSED ADMINISTRATIVE RULES

DEPARTMENT OF **LICENSING AND REGULATORY AFFAIRS** ~~CONSUMER AND~~
~~INDUSTRY SERVICES~~

DIRECTOR'S OFFICE ~~BUREAU OF SAFETY AND REGULATION~~

~~GENERAL INDUSTRY SAFETY STANDARDS COMMISSION~~

Proposed Draft December 20, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the **director of the department of licensing and regulatory affairs** ~~general industry safety standards commission~~ by sections 16 and 21 of **1974 Act No. PA 154, of the Public Acts of 1974, as amended, being SS-MCL 408.1016 and 408.1021, of the Michigan Compiled Laws) and Executive Reorganization Order Nos. 1996-2, 2003-18 2003-1, 2008-4, and 2011-4, MCL 408.1016, 408.1021, 445.2001, 445,2011, 445.2025, and 445.2030)**

R 408.14507, R 408.14521, and R 408.14555 of the Michigan Administrative Code are amended, and R 408.14535 is rescinded, as follows

PART 45. DIE CASTING

R 408.14507 Employer responsibility.

Rule 4507. (1) An employer shall provide training to an employee regarding the operating procedures, hazards, and safeguards of any assigned job.

(2) An employer shall not allow a machine to be operated which is not guarded as prescribed by this part or where the machine has a known defect which would affect the safety of an employee.

~~-(3) An employer shall establish and maintain a lockout procedure as prescribed in R 408.14525(1).~~

R 408.14521 Machine installation.

Rule 4521. ~~(1) An electrically powered machine shall be grounded.~~

~~-(2) A machine shall be so located that there will be space for the employee to handle the material and operate the machine without interference to or from other employees or machines.~~

R 408.14535 **Rescinded.** ~~Cylinder handling, storage and use.~~

~~Rule 4535. A compressed gas cylinder shall be handled, stored and used as prescribed in rules 1221 to 1225 of the general industry safety standards commission standard, Part 12. Welding and Cutting, being R 408.11221 to R 408.11225 of the Michigan Administrative Code.~~

R 408.14555 Sprue cutting machines.

Rule 4555. A sprue cutting machine shall be equipped with a point of operation guard or point of operation device as prescribed in the general industry safety standards commission standard, Part 23. 'Hydraulic Power Presses,' being R 408.12301 to R 408.12371 of the Michigan Administrative Code.

PROPOSED ADMINISTRATIVE RULES

**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS ~~CONSUMER AND INDUSTRY~~
SERVICES**

DIRECTOR'S OFFICE ~~BUREAU OF SAFETY AND REGULATION~~

OCCUPATIONAL HEALTH STANDARDS ~~COMMISSION~~

Proposed Draft December 20, 2012

Filed with the Secretary of State on

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the **director of the department of licensing and regulatory affairs by sections 14 and 24 of 1974 PA 154, MCL 408.1014 and 408.1024; and Executive Reorganization Orders Nos. 1996-1, 1996-2, 2003-1, 2008-4, AND 2011-4, MCL 330.3101, 445.2001, 445.2011, 445.2025 AND 445.2030**)~~occupational health standards commission by section 24 of act no. 154 of the public acts of 1974, as amended, being s408.1024 of the Michigan compiled laws)~~

R 325.51851, R 325.51852, R 325.51854, R 325.51856, R 325.51859, R 325.51860, R 325.51863, R 325.51862, R 325.51865, R 325.51866, R 325.51867, R 325.51868, R 325.51869, R 325.51873, R 325.51874, R 325.51879, R 325.51880, R 325.51881, and R 325.51883 of the Michigan Administrative Code are amended, R 325.51851a and R 325.51878a are added, and R 325.51885 and R 325.51886 are rescinded, as follows:

PART 309. CADMIUM

R 325.51851 Scope and application.

Rule 1. (1) These rules apply to all occupational exposures to cadmium and cadmium compounds in all forms and in all industries and employment situations, including the construction industry, except as provided in subrule (2) of this rule.

(2) Some of these rules and subrules of these rules apply only to the construction industry or to general industry and agricultural operations, as indicated in the rules and subrules. If a specific application is not indicated in a rule or subrule, then the rule or subrule applies to general industry, agricultural operations, and the construction industry.

(3) The rule replaces all references to cadmium contained in **Occupational Health Standards Part 301 "Air Contaminants for General Industry" and Part 601 "Air Contaminants for Construction,"** as referenced in **R 325.51851a.** ~~tables G-1-A and G-2 in R 325.51108 and table 2 of exhibit I of occupational health rule 6201.~~

R 325.51851a MIOSHA standards by reference.

Rule 1a. (1) The following Michigan occupational safety and health administration (MIOSHA) standards are referenced in these rules. Up to 5 copies of these standards may be obtained at no

charge from the Michigan Department of licensing and regulatory affairs, MIOSHA standards section, 7150 Harris Drive, P.O. Box 30643, Lansing, MI, 48909-8143 or via the internet at website: www.michigan.gov/mioshastandards. For quantities greater than 5, the cost, at the time of adoption of these rules, is 4 cents per page.

(a) Administrative Part 11 “Recording and Reporting of Occupational Injuries and Illnesses,” R 408.22101 to R 408.22162.

(b) Construction Safety Standard Part 1 “General Rules,” R 408.40101 to R 408.40134.

(c) General Industry Safety Standard Part 1 “General Provisions,” R 408.10001 to R 408.10098.

(d) General Industry Safety Standard Part 33 “Personal Protective Equipment,” R 408.13301 to R 408.13398.

(e) Occupational Health Standard Part 301 “Air Contaminants for General Industry,” R 325.51101 to R 325.51108.

(f) Occupational Health Part 430 “Hazard Communication,” R 325.77001 to R 325.77003.

(g) Occupational Health Part 451 “Respiratory Protection,” R 325.60051 to R 325.60052.

(h) Occupational Health Part 470 “Employee Medical Records and Trade Secrets,” R 325.3451 to R 325.3476.

(i) Occupational Health Part 520 “Ventilation Control,” R 325.52001 to R 325.52012.

(j) Occupational Health Part 601 “Air Contaminants for Construction,” R 325.60151 to R 325.60161.

(k) Occupational Health Part 621 “Health Hazard Control for Specific Equipment and Operations for Construction,” R 325.62102 to R 325.62126.

(2) Appendices, except where portions of Appendices A, B, D, E, and F to this rule are expressly incorporated in requirements of this rule, are purely informational and are not intended to create any additional obligations not otherwise imposed or to detract from any existing obligations.

R 325.51852 Definitions.

Rule 2. As used in these rules:

(a) “Action level” (AL) means an airborne concentration of cadmium of 2.5 micrograms per cubic meter of air (2.5 µg/ m³), calculated as an 8-hour, time-weighted average (TWA).

(b) “Authorized person” means a person who is authorized by an employer, and who is required by work duties, to be present in a regulated area, or a person who is authorized under **1974 PA 154, MCL 408.1001 to 408.1094**, Act No. 154 of the Public Acts of 1974, as amended, being §408.1001 et seq. of the Michigan Compiled Laws, and regulations issued under **1974 PA 154 Act 154** to be in a regulated area for the purpose of conducting an authorized investigation.

(c) “Competent person” means a person who is designated by an employer to act on the employer’s behalf, who is capable of identifying existing and potential cadmium hazards in the workplace and the proper methods to control the hazards to protect workers, and who has the authority necessary to take prompt corrective measures to eliminate or control such hazards. See R 325.51884 for the duties of a competent person.

(d) “Construction industry” means employers whose operations involve the construction, alteration, maintenance, repair, and demolition of a facility. Construction work includes any of the following:

(i) The wrecking, demolition, or salvage of structures where cadmium or materials that contain cadmium are present.

(ii) The use of cadmium-containing paints and cutting, brazing, burning, grinding, or welding on surfaces that are painted with cadmium-containing paints.

(iii) The construction, alteration, repair, maintenance, or renovation of structures, substrates, or portions thereof that contain cadmium or materials that contain cadmium.

(iv) Cadmium welding or cutting of cadmium-plated steel and brazing or welding with cadmium alloys.

(v) The installation of products that contain cadmium.

(vi) Electrical grounding with cadmium welding and electrical work using cadmium-coated conduit.

(vii) Maintaining or retrofitting cadmium-coated equipment.

(viii) Cadmium contamination cleanup and emergency operations that involve cadmium.

(ix) The transportation, disposal, storage, or containment of cadmium or materials, that contain cadmium on the site or location at which construction activities are performed.

(e) “Director” means the director of the Michigan department of **licensing and regulatory affairs** ~~consumer industry services~~ or his or her designee.

(f) “Employee exposure” means the exposure to airborne cadmium that would occur if the employee were not using respiratory protective equipment.

(g) “Final medical determination” means the written medical opinion of the employee’s health status by the examining physician under R 325.51870 to R 325.51876, **and** R 325.51877 if the review is by more than 1 physician, or R 325.51877(5) if the alternative physician determination is invoked. It is the final, written medical finding, recommendation, or determination that emerges from the medical surveillance process.

(h) “High-efficiency particulate air (HEPA) filter” means a filter that is capable of trapping and retaining not less than 99.97% of mono-dispersed particles that are 0.3 micrometers in diameter.

(i) “Regulated area” means an area which is demarcated by an employer and in which an employee’s exposure to airborne concentrations of cadmium exceeds, or can reasonably be expected to exceed, the permissible exposure limit (PEL).

R 325.51854 Exposure monitoring generally.

Rule 4. (1) This subrule applies only to construction. Before performing ~~of~~ any construction work where employees may potentially be exposed to cadmium, an employer shall establish the applicability of these rules by determining whether cadmium is present in the workplace and whether there is the possibility that employee exposures will be at or above the action level. An employer shall designate a competent person to make this determination. **The employers shall use** appropriate investigation and material testing techniques ~~shall be used~~ in making the determination. An investigation shall include all of the following:

(a) A review of relevant plans.

(b) A review of past reports relative to cadmium.

(c) ~~Material~~ Safety data sheets.

(d) Other available records.

(e) Consultations with the property owner.

(f) Discussions with appropriate individuals and agencies.

(2) An employer whose workplace or work operation involves cadmium in any way shall determine if any employee may be exposed to cadmium at or above the action level. An employer shall identify which employees potentially are exposed to cadmium at or above the action level and shall conduct exposure monitoring to determine what the exposure levels are.

(3) Determinations of employee exposure shall be made from breathing zone air samples that reflect the monitored employee’s regular, daily 8-hour TWA exposure to cadmium.

(4) Eight-hour TWA exposures shall be determined for each employee on the basis of 1 or more personal breathing zone air samples that reflect a full shift of exposure on each shift, for each job classification, in each work area. Where several employees perform the same job tasks, in the same job classification, on the same shift, and in the same work area and the length, duration, and level of

cadmium exposures are similar, an employer may sample a representative fraction of the employees instead of all of the employees to meet this requirement. In representative sampling, an employer shall sample the employee who is expected to have the highest cadmium exposures.

(5) An employer shall use a method of monitoring and analysis that has an accuracy of not less than plus or minus 25%, with a confidence level of 95%, for airborne concentrations of cadmium at or above the action level, the permissible exposure limit (PEL), and the separate engineering control air limit (SECAL).

R 325.51856 Employee notification of monitoring results.

Rule 6. (1) Not later than 15 working days for general industry and agricultural operations and not later than 5 working days for the construction industry, after an employer receives the results of any exposure monitoring that is performed pursuant to the provisions of these rules, an employer shall notify each affected employee individually in writing, **or by posting of the results**, ~~In addition, within the same time period, an employer shall post the results of the exposure monitoring~~ in an appropriate location that is accessible to all affected employees.

(2) If monitoring results indicate that employee exposure exceeds the PEL, then an employer shall include, in the written notice, a statement that the PEL has been exceeded and a description of the corrective action that is being taken by the employer to reduce employee exposure to or below the PEL.

R 325.51859 Engineering and work practice controls; applicability of rule to construction industry.

Rule 9. (1) This rule applies only to the construction industry. Except as specified in subrule (2) of this rule, an employer shall implement engineering and work practice controls to reduce and maintain employee exposure to cadmium at or below the PEL, unless, and to the extent that, the employer can demonstrate that the controls are not feasible.

(2) The requirement to implement engineering controls to achieve the PEL does not apply if an employer can demonstrate both of the following:

(a) The employee is only intermittently exposed.

(b) The employee is not exposed above the PEL on 30 or more days per 12-consecutive-month period.

(3) If engineering and work practice controls are not sufficient to reduce employee exposure at or below the PEL, an employer nonetheless shall implement the controls to reduce exposures to the lowest levels achievable. The employer shall supplement the controls with respiratory protection that is in compliance with ~~the provisions of R 325.51862 and the PEL.~~

(4) An employer shall not use employee rotation as a method of compliance.

(5) All of the following provisions apply to the specific operations indicated:

(a) Abrasive blasting of cadmium or cadmium-containing materials shall be conducted in a manner that will provide adequate protection for employees.

(b) Welding, cutting, and other forms of heating cadmium or cadmium-containing materials shall be conducted in accordance with ~~the requirements of Occupational Health~~ **Standard Part 621 “Health Hazard Control for Specific Equipment and Operations for Construction,” as referenced in R 325.51851a, rule 6310(3) and (4),** where applicable.

(c) High-speed abrasive disc saws and similar abrasive power equipment that **are** is used for work on cadmium or cadmium-containing materials shall be equipped with appropriate engineering controls to minimize emissions to levels below the PEL.

(d) Materials that contain cadmium shall not be applied by spray methods if resulting exposures are above the PEL, unless employees are protected with supplied-air respirators which have full facepieces, hoods, helmets, and suits and which are operated in a positive pressure mode and, in addition, measures are instituted to limit overspray to prevent contamination of adjacent areas.

R 325.51860 Use of mechanical ventilation to control exposure to cadmium.

Rule 10. (1) If ventilation is used to control cadmium exposure, measurements that demonstrate the effectiveness of the system in controlling exposure, such as capture velocity, duct velocity, or static pressure, shall be made as necessary to ensure the ventilation system's effectiveness.

(2) Measurements of the system's effectiveness in controlling exposure shall be made as necessary within 5 working days of any change in production, process, or control that might result in a significant increase in employee exposure to cadmium.

(3) If air from exhaust ventilation is recirculated into the workplace, the system shall have a high-efficiency filter and be monitored to ensure effectiveness. Recirculation of local exhaust air shall be in compliance with the provisions of Occupational Health **Standard Part 520 "Ventilation Control," as referenced in R 325.51851a.** ~~rule 3101(10).~~

(4) Procedures shall be developed and implemented to minimize employee exposure to cadmium when maintenance is performed on the ventilation systems and when filters are changed.

R 325.51862 Respiratory protection; circumstances for use; selection.

Rule 12. (1) For employees who use respirators required by this rule, the employer shall provide **each employee an appropriate** respirator that **complies** ~~comply~~ with the requirements of this rule. Respirators must be used during all of the following:

(a) Periods necessary to install or implement feasible engineering and work practice controls when employee exposures exceeds the PEL.

(b) Maintenance and repair activities and brief or intermittent work operations for which employee exposures exceed the PEL and engineering and work practice controls are not feasible or are not required.

(c) Work operations in the regulated areas specified in R 325.51857.

(d) Work operations for which the employer has implemented all feasible engineering and work practice controls and such controls are not sufficient to reduce exposures to or below the PEL.

(e) Emergencies.

(f) Work operations for which an employee who is exposed to cadmium at or above the action level requests a respirator.

(g) Work operations for which engineering controls are not required by R 325.51859(2) to reduce employee exposures that exceed the PEL.

(2) The employer shall **do all of the following:** ~~select the appropriate respirator from table 2.~~

(a) Select, and provide to employees, the appropriate respirators specified in paragraph (d)(3)(i)(A) of Occupational Health Standard Part 451 "Respiratory Protection," as referenced in R 325.51851a.

(b) Provide employees with full facepiece respirators when they experience eye irritation.

(c) Provide HEPA filters for powered and non-powered air-purifying respirators.

~~(3) Table 2 reads as follows:~~

Table 2	
RESPIRATORY PROTECTION FOR CADMIUM	
Airborne Concentration ^a or Condition of use	Required Respirator Type ^b
10 times or less	A half mask, air purifying respirator equipped with a HEPA filter. (d)

25 times or less	A powered air purifying respirator (PAPR) with a loose-fitting hood or helmet equipped with a HEPA filter, or a supplied air respirator with a loose fitting hood or helmet facepiece operated in the continuous flow mode
50 times or less	A full facepiece air purifying respirator equipped with a HEPA filter, or a powered air purifying respirator with a tight-fitting half-mask equipped with a HEPA filter, or a supplied air respirator with a tight-fitting half-mask operated in the continuous flow mode.
250 times or less	A powered air purifying respirator with tight fitting full facepiece equipped with a HEPA filter, or supplied air respirator with a tight-fitting full facepiece operated in the continuous flow mode
1,000 times or less	A supplied air respirator with a half mask or full facepiece operated in the pressure demand or other positive pressure mode.
More than 1,000, times or unknown concentrations	A self-contained breathing apparatus with a full facepiece operated in the pressure demand or other positive pressure mode; or a supplied air respirator with a full facepiece operated in the pressure demand or other positive pressure mode and equipped with an auxiliary escape type self-contained breathing apparatus operated in the pressure demand mode.
Fire-fighting	A self-contained breathing apparatus with a full facepiece operated in the pressure demand or other positive pressure mode.
^a Concentrations expressed as multiple of the PEL	
^b Respirators assigned for higher environmental concentrations may be used at lower exposure levels. Quantitative fit testing is required for all tight fitting air purifying respirators where the airborne concentration of cadmium is more than 10 times the TWA PEL ($10 \times 5 \mu\text{g}/\text{m}^3 = 50 \mu\text{g}/\text{m}^3$). A full facepiece respirator is required when eye irritation is experienced.	
^c HEPA means High Efficiency Particulate Air.	
^d Fit testing, qualitative or quantitative, is required	

(3)(4) An employer shall provide a powered, air-purifying respirator (PAPR) in place of a negative pressure respirator if an employee who is entitled to a respirator chooses to use this type of respirator and if a PAPR respirator will provide adequate protection to the employee.

R 325.51863 Respiratory protection program; fit testing.

Rule 13. (1) The employer shall implement a

respiratory protection program in accordance with **Occupational Health Standard Part 451 “Respiratory Protection,”** ~~29 C.F.R. § Rules~~ 1910.134(b) to (d) and (f) to (m), except for (d)(1)(iii), as referenced in R 325.51851a, which covers each employee required by this rule to use a respirator.

(2) If an employee exhibits breathing difficulty during fit testing or respirator use, then the employer shall provide the employee with a medical examination under R 325.51868(2)(d) to determine if the employee can use a respirator while performing the required duties.

(3) An employee shall not use a respirator when, based on his or her most recent medical examination, the examining physician determines that the employee will be unable to continue to function normally while using a respirator. If the physician determines the employee must be limited in, or removed from, the employee’s current job because of the employee’s inability to use a respirator, then the employer shall conduct the job limitation or removal under R 325.51875 and R 325.51876.

R 325.51865 Protective work clothing and equipment.

Rule 15. (1) If an employee is exposed to airborne cadmium above the PEL or if skin or eye irritation is associated with cadmium exposure at any level, then an employer shall provide, at no cost to the employee, and ensure that the employee uses, appropriate protective work clothing and equipment that prevents contamination of the employee and the employee’s garments. Protective work clothing and equipment includes all of the following:

- (a) Coveralls or similar full-body work clothing.
- (b) Gloves, head coverings, and boots or foot coverings.
- (c) Face shields, vented goggles, or other appropriate protective equipment that is in compliance with the provisions of **General Industry Standard Part 33 “Personal Protective Equipment,”** as referenced in R 325.51851a. ~~R 408.13301 et seq. of the Michigan Administrative Code~~

(2) All of the following provisions pertain to the removal and storage of protective work clothing and equipment:

(a) An employer shall ensure that employees remove all protective clothing and equipment that is contaminated with cadmium at the completion of the work shift and that employees do so only in change rooms that are provided in accordance with ~~the provisions of~~ R 325.51866(2).

(b) An employer shall ensure that an employee does not take cadmium-contaminated protective clothing or equipment from the workplace, except for employees who are authorized to do so for purposes of laundering, cleaning, maintaining, or disposing of cadmium-contaminated protective clothing and equipment at an appropriate location or facility away from the workplace.

(c) An employer shall ensure that contaminated protective clothing and equipment, when removed for laundering, cleaning, maintenance, or disposal, is placed and stored in sealed, impermeable bags or other closed, impermeable containers that are designed to prevent the dispersion of cadmium dust.

(d) An employer shall assure that bags or containers of contaminated protective clothing and equipment that are to be taken out of the change rooms or the workplace for laundering, cleaning, maintenance, or disposal bear labels in accordance with ~~the provisions of~~ R 325.51879. ~~(3).~~

(3) All of the following provisions pertain to the cleaning, replacement, and disposal of protective clothing and equipment:

(a) An employer shall provide the protective clothing and equipment required by subrule (1) of this rule in a clean and dry condition as often as necessary to maintain its effectiveness, but at least weekly. An employer is responsible for cleaning and laundering the protective clothing and equipment required by this rule to maintain its effectiveness and is also responsible for disposing of the clothing and equipment.

(b) An employer is responsible for repairing or replacing required protective clothing and equipment as needed to maintain its effectiveness. An employer shall ensure that rips or tears, which are detected while an employee is working are immediately mended or the worksuit shall be immediately replaced.

(c) An employer shall prohibit the removal of cadmium from protective clothing and equipment by blowing, shaking, or any other means that disperses cadmium into the air.

(d) An employer shall ensure that any laundering of contaminated clothing or cleaning of contaminated equipment in the workplace is done in a manner that prevents the release of airborne cadmium in excess of the PEL.

(e) An employer shall inform any person who launders or cleans protective clothing or equipment contaminated with cadmium of the potentially harmful effects of exposure to cadmium and that the clothing and equipment should be laundered or cleaned in a manner to effectively prevent the release of airborne cadmium in excess of the PEL.

R 325.51866 Hygiene areas and practices.

Rule 16. (1) An employer shall provide clean change rooms, handwashing facilities, showers, and lunchroom facilities that are in compliance with ~~the provisions of occupational health rule 4201 for General Industry~~ **Standard Part 1 “General Provisions,”** or ~~occupational health rule 6615 for the Construction~~ **Safety Standard Part 1 “General Rules,” as referenced in R 325.51851a,** industry for employees whose airborne exposure to cadmium is above the PEL.

(2) An employer shall ensure that change rooms are equipped with separate storage facilities for street clothes and for protective clothing and equipment which are designed to prevent the dispersion of cadmium and contamination of the employee's street clothes.

(3) Both of the following provisions pertain to showers and handwashing facilities:

(a) An employer shall ensure that employees who are exposed to cadmium above the PEL shower during the end of the work shift.

(b) An employer shall ensure that employees whose airborne exposure to cadmium is above the PEL wash their hands and faces before eating, drinking, smoking, chewing tobacco or gum, or applying cosmetics.

(4) Both of the following provisions pertain to lunchroom facilities:

(a) An employer shall ensure that lunchroom facilities are readily accessible to employees, that tables for eating are maintained free of cadmium, and that no employee in a lunchroom facility is exposed at any time to cadmium at or above a concentration of 2.5 µg/m³.

(b) An employer shall ensure that employees do not enter lunchroom facilities with protective work clothing or equipment unless surface cadmium has been removed from the clothing and equipment by HEPA filter vacuuming or some other method that removes cadmium dust without dispersing it.

R 325.51867 Housekeeping.

Rule 17. An employer shall comply with all of the appropriate following requirements pertaining to housekeeping:

(a) All surfaces shall be maintained as free as practical of the accumulation of cadmium.

(b) All spills and sudden releases of material that contains cadmium shall be cleaned up as soon as possible.

(c) Surfaces that are contaminated with cadmium shall, where possible, be cleaned by vacuuming or other method that minimizes the likelihood of cadmium becoming airborne.

(d) HEPA filter vacuuming equipment or equally effective filtration methods shall be used for vacuuming. The equipment shall be used and emptied in a manner that minimizes the reentry of cadmium into the workplace.

(e) Shoveling or dry or wet sweeping and brushing may be used only if vacuuming or other methods that minimize the likelihood of cadmium becoming airborne have been tried and found to be ineffective.

(f) Compressed air shall not be used to remove cadmium from any surface unless the compressed air is used in conjunction with a ventilation system that is designed to capture the dust cloud created by the compressed air.

(g) Waste scrap, debris, bags, containers, personal protective equipment, and clothing which **are** is contaminated with cadmium and which **are** is consigned for disposal shall be collected and disposed of in sealed impermeable bags or other closed, impermeable containers. The bags and containers shall be labeled in accordance with ~~the provisions of R 325.51878a and R 325.51879. (3).~~

R 325.51868 Medical surveillance generally; applicability of subrules (1) and (2)

Rule 18. (1) This subrule applies only to general industry and agricultural operations. An employer shall institute a medical surveillance program as follows:

(a) For all employees who are or may be exposed to cadmium at or above the action level, unless the employer can demonstrate that the employee is not, and will not be, exposed at or above the action level on 30 or more days during a 12-consecutive-month period.

(b) For all employees who, before **September 16, 1993**, ~~the effective date of these rules~~, might previously have been exposed to cadmium at or above the action level by the employer, unless the employer can demonstrate that the employee, before **September 16, 1993**, ~~the effective date of these rules~~, did not work for the employer in jobs with exposure to cadmium for an aggregated total of more than 60 months.

(c) To determine an employee's fitness for wearing a respirator, an employer shall provide the limited medical examination specified by R 325.51873(1) and (2).

(2) This subrule applies only to the construction industry. An employer shall institute a medical surveillance program as follows:

(a) For all employees who are or may be exposed at or above the action level.

(b) For all employees who perform any of the following tasks, operations, or jobs:

(i) Electrical grounding with cadmium welding.

(ii) Cutting, brazing, burning, grinding, or welding on surfaces that are painted with cadmium containing paints.

(iii) Electrical work using cadmium-coated conduit.

(iv) Use of cadmium-containing paints.

(v) Cutting and welding cadmium-plated steel.

(vi) Brazing or welding with cadmium alloys.

(vii) Fusing of reinforced steel by cadmium welding.

(viii) Maintaining or retrofitting cadmium-coated equipment.

(ix) Wrecking and demolition where cadmium is present.

(c) For all employees who previously might have been exposed to cadmium by the employer before **September 16, 1993**, ~~the effective date of these rules~~ in tasks listed in subdivision (b) of this subrule, unless the employer can demonstrate that the employee, in the years before **September 16, 1993**, ~~the effective date of these rules~~, did not work in those tasks for the employer with exposure to cadmium for an aggregated total of more than 12 months.

(d) To determine an employee's fitness for wearing a respirator, an employer shall provide the limited medical examination specified by R 325.51873(1) and (2).

(e) A medical surveillance program is not required if an employer can demonstrate that both of the following provisions apply:

(i) An employee is not currently exposed by the employer to airborne concentrations of cadmium at or above the action level on 30 or more days during a 12-consecutive-month period.

(ii) An employee is not currently exposed by the employer in those tasks listed in subdivision (b) of this subrule on 30 or more days during a 12-consecutive-month period.

(3) An employer shall ensure that all medical examinations and procedures that are required by these rules are performed by or under the supervision of a licensed physician who has read, and is familiar with, all of the following:

(a) The health effects section of appendix A.

(b) The regulatory text of these rules.

(c) The protocol for sample handling and laboratory selection in appendix F.

(d) The questionnaire in appendix D. All medical surveillance, examinations, tests, and procedures shall be provided without cost to the employee and at a time and place that is reasonable and convenient for employees.

(4) An employer shall ensure that the collection and handling of biological samples of cadmium in urine (CdU), cadmium in blood (CdB), and beta-2 microglobulin in urine (β_2 -M) taken from employees is done in a manner that ensures the integrity and reliability of the samples and that analysis of the samples is performed in laboratories that have a demonstrated proficiency for the particular analyte. See appendix F.

R 325.51869 Initial medical examination.

Rule 19. (1) An employer shall provide an initial medical examination to all employees who are covered by the medical surveillance program required pursuant to ~~the provisions of R 325.51868(1) or~~ (2). The examination shall be provided to covered employees within 30 days after initial assignment to a job with exposure to cadmium or not later than 90 days after **September 16, 1993**, ~~the effective date of these rules~~, whichever date is later.

(2) The initial medical examination shall include both of the following elements:

(a) A detailed medical and work history, with an emphasis on all of the following:

(i) Past, present, and anticipated future exposure to cadmium.

(ii) Any history of renal, cardiovascular, respiratory, hematopoietic, reproductive, or musculoskeletal system dysfunction.

(iii) Current use of medication that has potential nephrotoxic side effects.

(iv) Smoking history and current status.

(b) Biological monitoring that includes all of the following tests:

(i) Cadmium in urine (CdU), standardized to grams of creatinine (g Cr).

(ii) Beta-2 microglobulin in urine (B2-M), standardized to grams of creatinine (g Cr) with Ph specified, as described in appendix F.

(iii) Cadmium in blood (CdB), standardized to liters of whole blood (lwb).

(3) An initial medical examination is not required to be provided if adequate records show that an employee has been examined in accordance with the requirements of subrule (2) of this rule within the past 12 months. If an employee has been examined in accordance with the requirements of subrule (2) of this rule within the past 12 months, the records shall be maintained as part of the employee's medical record and the exam shall be treated as if it were an initial medical examination for the purposes of R 325.51870 and R 325.51871.

R 325.51873 Medical exams for fitness to use respirators, for exposure due to emergency, and at termination.

Rule 23. (1) To determine an employee's fitness for respirator use, an employer shall provide a medical examination that includes the elements specified in this subrule. The examination shall be provided before an employee is assigned to a job that requires the use of a respirator or not more than 90 days after **September 16, 1993**, ~~these rules take effect~~, whichever date is later, to any employee who has not had a medical examination within the preceding 12 months that satisfies the requirements of this subrule. The medical exam shall include all of the following:

- (a) A detailed medical and work history, or update thereof, with an emphasis on all of the following:
 - (i) Past exposure to cadmium.
 - (ii) Smoking history and current status.
 - (iii) Any history of renal, cardiovascular, respiratory, hematopoietic, or musculo-skeletal system dysfunction.

- (iv) A description of the job for which the respirator is required.

- (v) Answers to questions 3-11 and 25-32 in appendix D to these rules.

- (b) A blood pressure test.

- (c) Biological monitoring of the employee's levels of CdU, CdB, and β 2-M in accordance with the requirements of R 325.51869(2)(b), unless the results have been obtained within the previous 12 months.

- (d) Any other test or procedure that the examining physician deems appropriate.

(2) All of the following provisions pertain to the medical examination for respirator use:

- (a) After reviewing all of the information obtained from the medical examination required in subrule (1) of this rule, the physician shall determine whether the employee is fit to wear a respirator.

- (b) If an employee has exhibited difficulty in breathing during a respirator fit test or during use of a respirator, an employer shall provide the employee, as soon as possible, with a periodic medical examination in accordance with ~~the provisions of~~ R 325.51871(2) to determine the employee's fitness to wear a respirator.

- (c) If the results of the examination required by subrule (1) of this rule or subdivision (a) or (b) of this subrule are abnormal, the medical limitation or prohibition of respirator use shall be considered. If the employee is allowed to wear a respirator, the employee's ability to continue to do so shall be periodically evaluated by a physician.

- (3) In addition to the medical surveillance required by ~~the provisions of~~ R 325.51869 to R 325.51873(2), an employer shall provide a medical examination, as soon as possible, to any employee who may have been acutely exposed to cadmium because of an emergency. The examination shall include the information required pursuant to ~~the provisions of~~ R 325.51871(2), with an emphasis on the respiratory system, other organ systems considered appropriate by the examining physician, and symptoms of acute overexposure, as reviewed in appendix A to these rules.

- (4) At termination of employment, an employer shall provide a medical examination in accordance with ~~the provisions of~~ R 325.51871(2), including a chest X ray where necessary, to any employee to whom, at any prior time, an employer was required to provide medical surveillance pursuant to ~~the provisions of~~ **R 325.51868**(1) or subrule (3) of this rule. However, if the last examination satisfied the requirements of R 325.51871(2) and was less than 6 months before the date of termination, then another examination is not required unless otherwise specified by ~~the provisions of~~ R 325.51870 or R 325.51872(1) or (2). If the employer has discontinued all periodic medical surveillance as provided by the provisions of R 325.51871(4), the termination of employment medical examination is not required.

R 325.51874 **Providing** ~~Provision~~ of information to physician by employer; employer required to obtain medical opinion; employer required to obtain results of biological monitoring; findings unrelated to cadmium exposure.

Rule 24. (1) An employer shall provide all of the following information to an examining physician:

- (a) A copy of these rules and appendices.
 - (b) A description of an affected employee's former, current, and anticipated duties as they relate to the employee's occupational exposure to cadmium.
 - (c) An employee's former, current, and anticipated future levels of occupational exposure to cadmium.
 - (d) A description of any personal protective equipment, including respirators, that were used or are to be used by the employee, including the date of use and the length of time that the employee has used that equipment.
 - (e) The results of previous biological monitoring and medical examinations that are relevant to the employee.
- (2) An employer shall promptly obtain a written, ~~signed~~ medical opinion from the examining physician for each medical examination performed on each employee. The written opinion shall contain all of the following information:
- (a) The physician's diagnosis for the employee.
 - (b) The physician's opinion as to whether the employee has any detected medical condition that would place the employee at an increased risk of material impairment to health from further exposure to cadmium, including any indications of potential cadmium toxicity.
 - (c) The results of any biological or other testing or related evaluations that directly assess the employee's absorption of cadmium.
 - (d) Any recommended removal from, or limitation on, the activities or duties of the employee or on the employee's use of personal protective equipment including respirators.
 - (e) A statement that the physician has clearly and carefully explained to the employee the results of the medical examination, including all biological monitoring results and any medical conditions related to cadmium exposure that require further evaluation or treatment, and any limitation on the employee's diet or use of medications.
- (3) An employer promptly shall obtain a copy of the results of any biological monitoring that is provided to an employee by requirements other than those of a medical examination required by ~~the provisions of R 325.51869 and R 325.51871 and~~, if there is no written medical opinion, shall obtain an explanation sheet explaining the results.
- (4) An employer shall instruct the physician not to reveal orally or in the written medical opinion that is given to the employer specific findings or diagnoses unrelated to an occupational exposure to cadmium.

R 325.51878a Hazard communication--general.

Rule 28a. (1) Chemical manufacturers, importers, distributors and employers shall comply with all requirements of the Occupational Health Standard Part 430 "Hazard Communication," as referenced in R 325.51851a, for cadmium.

- (2) In classifying the hazards of cadmium, at least the following hazards are to be addressed:**
- (a) Cancer.**
 - (b) Lung effects.**
 - (c) Kidney effects.**
 - (d) Acute toxicity effects.**
- (3) Employers shall include cadmium in the hazard communication program established to comply with the requirements of the Occupational Health Standard Part 430 "Hazard**

Communication.” Employers shall ensure that each employee has access to labels on containers of cadmium and to safety data sheets, and is trained in accordance with R 325.51880 and Occupational Health Standard Part 430 “Hazard Communication,” as referenced in R 325.51851a.

R 325.51879 Communication of cadmium hazards to employees.

~~Rule 29. (1) In communications to employees concerning cadmium hazards, an employer shall comply with the requirements of the occupational safety and health administration (OSHA) hazard communication standard, being 29 C.F.R. §1910.1200, which is incorporated by section 14a of Act No. 154 of the Public Acts of 1974, as amended, being §408.1014a of the Michigan Compiled Laws. In addition to section 14a of Act No. 154 of the Public Acts of 1974, as amended, an employer shall comply with the requirements of the amended Occupational safety and Health administration (OSHA) “Hazard Communication,” standards for general industry or the construction industry, being 29 C.F.R. §1910.1200 and 29 C.F.R. §1926.59, which were adopted by reference in R 325.77001 et seq. of the Michigan Administrative Code. The hazard communication requirements include labels, material safety data sheets (MSDS), and employee information and training.~~

~~(1)(2) An employer shall provide warning signs shall be provided and displayed them in regulated areas. In addition, warning signs shall be posted at all approaches to regulated areas so that an employee may read the signs and take the necessary protective steps before entering the regulated area. Both of the following provisions pertain to warning signs:~~

(2) Warning signs required by subrule (1) of this rule, shall bear the following legend:

<p style="text-align: center;">DANGER CADMIUM MAY CAUSE CANCER CAUSES DAMAGE TO LUNGS AND KIDNEYS WEAR RESPIRATORY PROTECTION IN THIS AREA AUTHORIZED PERSONNEL ONLY</p>

(3) Prior to June 1, 2016, employers may use the following legend in lieu of that specified in subrule (2) of this rule.

~~–(a) Warning signs shall bear the following legend:~~

<p style="text-align: center;">DANGER CADMIUM CANCER HAZARD CAN CAUSE LUNG AND KIDNEY DISEASE AUTHORIZED PERSONNEL ONLY RESPIRATORS REQUIRED IN THIS AREA</p>
--

~~(4)(b) An employer shall ensure that warning signs that are required by this subrule are illuminated, cleaned, and maintained as necessary so that the legend is readily visible.~~

~~(5)(3) An employer shall comply with the labeling requirements of 29 C.F.R. §1910.1200 and 29 C.F.R. §1926.59 and shall ensure that all shipping and storage containers that contain cadmium, or cadmium compounds, or cadmium contaminated clothing, equipment, waste, scrap, or debris shall bear~~

appropriate warning labels **as specified in R 408.51878a**. ~~At a minimum, a warning label shall include all of the following information:~~

(6) The warning labels for containers of cadmium-contaminated protective clothing, equipment, waste, scrap, or debris shall include at least the following information:

**DANGER
CONTAINS CADMIUM
MAY CAUSE CANCER
CAUSES DAMAGE TO LUNGS AND KIDNEYS
AVOID CREATING DUST**

(7) Prior to June 1, 2015, employers may include the following information on shipping and storage containers containing cadmium, cadmium compounds, or cadmium contaminated clothing, equipment, waste, scrap, or debris in lieu of the labeling requirements specified in R 408.51878a and subrule (2) of this rule:

**DANGER
CONTAINS CADMIUM
CANCER HAZARD
AVOID CREATING DUST
CAN CAUSE LUNG AND KIDNEY DISEASE**

(8) ~~Also,~~ Where feasible, installed cadmium products shall have a visible label or other indication that cadmium is present.

R 325.51880 Employee information and training. ~~applicability of subrule (4).~~

Rule 30. (1) An employer shall train each employee who is potentially exposed to cadmium in accordance with this rule. The employer shall institute a training program, ~~for all employees who may be exposed to cadmium, assure~~ **ensure** employee participation in the program, and maintain a record of the contents of the program. Employee training shall be provided before or at the time of initial assignment to a job that involves potential exposure to cadmium and at least annually thereafter.

(2) An employer shall make the training program understandable to the employee and shall ensure that each employee is informed of all of the following:

(a) The health hazards associated with cadmium exposure, with special attention to the type of information provided in appendix A.

(b) The quantity, location, manner of use, release, and storage of cadmium in the workplace and the specific nature of operations that could result in exposure to cadmium, especially exposure above the PEL.

(c) The engineering controls and work practices associated with the employee's job assignment.

(d) The measures employees can take to protect themselves from exposure to cadmium, including modification of smoking and personal hygiene habits, and the specific procedures the employer has implemented to protect employees from exposure to cadmium, such as appropriate work practices, emergency procedures, and the provision of personal protective equipment.

(e) The purpose, proper selection, fitting, proper use, and limitations of respirators and protective clothing.

(f) The purpose and a description of the medical surveillance program required pursuant to ~~the provisions of R 325.51868 to R 325.51878.~~

(g) The contents of these rules and the appendices to these rules.

(h) The employee's right of access to records as provided by ~~the provisions of Occupational Health Standard Part 470 "Employee Medical Records and Trade Secrets," as referenced in R 325.51851a. R 325.3460 to R 325.3471 and R 325.3473.~~

(3) An employer shall make a copy of these rules and the appendices to these rules readily available without cost to all affected employees and shall provide a copy if requested. Also, an employer shall provide to the director, upon request, all materials relating to the employee information and training program.

(4) This subrule applies only to the construction industry. In a multiemployer workplace, an employer who produces, uses, or stores cadmium in a manner that may expose employees of other employers to cadmium shall notify the other employers of the potential hazards in accordance with ~~the provisions of Occupational Health Standard Part 430 "Hazard Communication," for general industry or the construction industry, as referenced in R 325.51851a. 29 C.F.R. §1926.59(4)(2)(i)-(iii), which is referenced in R 325.51879(1).~~

R 325.51881 Recordkeeping.

Rule 31. (1) All of the following provisions pertain to records of exposure monitoring:

(a) An employer shall establish and keep accurate records of all air monitoring for cadmium in the workplace.

(b) Air monitoring records shall include, at a minimum, all of the following information:

(i) The monitoring date, shift, duration, and results in terms of an 8-hour TWA of each sample taken and, if cadmium is not detected, the detection level.

(ii) The name, social security number, and job classification of all employees who are monitored and of all other employees whose exposures the monitoring result is intended to represent, including, if applicable, a description of the justification that monitoring results of 1 employee can represent other employees' exposures.

(iii) A description of the sampling and analytical methods used and evidence of their accuracy.

(iv) The type of respiratory protective device, if any, worn by the monitored employee and by any other employee whose exposure the monitoring result is intended to represent.

(v) A notation of any other conditions that might have affected the monitoring results.

(vi) Any exposure monitoring or objective data that were used and the exposure levels obtained. The provisions of this paragraph apply only to the construction industry.

(c) An employer shall maintain these records for not less than 30 years as set in accordance with ~~the provisions of Occupational Health Standard Part 470 "Employee Medical Records and Trade Secrets," as referenced in R 325.51851a. R 325.3457.~~

(d) This subdivision applies only to the construction industry. An employer shall provide a copy of the results of an employee's air monitoring prescribed in R 325.51854 and R 325.51855 to an industry trade association and to the employee's union, if any. If neither the association nor the union exists, monitoring results shall be furnished to another comparable organization which is competent to maintain such records and which is reasonably accessible to employers and employees in the industry.

(2) This subrule applies to objective data used to exempt an employer from the requirements to perform initial monitoring as provided in R 325.51855(3). For the purposes of these rules, "objective data" means information which demonstrates that a particular product or material that contains cadmium, or a specific process, operation, or activity that involves cadmium, cannot release dust or fumes in concentrations at or above the action level even under the worst-case release conditions. Objective data can be obtained from an industry-wide study or from laboratory product testing results for manufacturers of cadmium containing products or materials. The data the employer uses from an

industry-wide survey shall be obtained under workplace conditions closely resembling the processes, types of material, control methods, work practices, and environmental conditions in the employer's current operations. An employer shall establish and maintain a record of the objective data for not less than 30 years.

(3) All of the following provisions pertain to medical surveillance records:

(a) An employer shall establish and maintain an accurate record for each employee covered by the medical surveillance requirements of R 325.51868(1) or (2).

(b) The medical surveillance records shall include, at a minimum, all of the following information about the employee:

(i) Name, social security number, and description of duties.

(ii) A copy of the physician's written opinions and an explanation sheet for biological monitoring results.

(iii) A copy of the medical history, the results of any physical examination, and all test results that are required to be provided by these rules, including biological tests, X-rays, pulmonary function tests, and tests that have been obtained to further evaluate any condition that might be related to cadmium exposure.

(iv) The employee's medical symptoms that might be related to exposure to cadmium.

(v) A copy of the information that is provided to the physician as required by ~~the provisions of~~ R 325.51874(1)(b) to (e).

(c) An employer shall ensure that medical records are maintained for the duration of employment plus 30 years as specified by ~~the provisions of~~ **Occupational Health Standard Part 470 "Employee Medical Records and Trade Secrets," as referenced in R 325.51851a. R 325.3456.**

~~(4) With regard to training records, an employer shall certify that employees have been trained by preparing a certification record that includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification record shall be prepared at the completion of training and shall be maintained on file for 1 year beyond the date of training of that employee.~~

~~(4)(5)~~ All of the following provisions pertain to the availability and transfer of records:

(a) Except as otherwise provided for in these rules, access to all records that are required to be maintained by this rule shall be in compliance with ~~the provisions of~~ **Occupational Health Standard Part 470 "Employee Medical Records and Trade Secrets," as referenced in R 325.51851a. R 325.3451 et seq.**

(b) Within 15 days after a request, an employer shall make an employee's medical records that are required to be kept pursuant to ~~the provisions of~~ subrule (3) of this rule available for examination and copying to the subject employee, to a designated representative, or to anyone who has the specific written consent of the subject employee and, after the employee's death or incapacitation, to the employee's family members.

(c) When an employer ceases to do business and there is no successor employer to receive and retain records for the prescribed period or the employer intends to dispose of any records that are required to be preserved for not less than 30 years, then the employer shall comply with the requirements concerning the transfer of records set forth in **Occupational Health Standard Part 470 "Employee Medical Records and Trade Secrets," as referenced in R 325.51851a. R 325.3475.**

~~(5)(6)~~ An employer shall ensure that any abnormal condition or disorder that is caused by occupational exposure to cadmium in the workplace is properly recorded in injury and illness records pursuant to ~~the provisions of~~ **Administrative Standard Part 11 "Recording and Reporting of Occupational Injuries and Illnesses," as referenced in R 325.51851a. R 408.22101 et seq.**

R 325.51883. Compliance dates.

Rule 33. ~~(1) All of the requirements of these~~ **The** rules that apply to general industry and agricultural operations shall commence on **September 16, 1993**, ~~the effective date of these rules~~, except as follows:

(a) Except for small businesses that have 19 or fewer employees, initial monitoring that is required by ~~the provisions of R 325.51855~~ shall be completed as soon as possible, but not later than 60 days after **September 16, 1993**. ~~the effective date of these rules~~. For small businesses, initial monitoring shall be completed as soon as possible, but not later than 120 days after **September 16, 1993**. ~~the effective date of these rules~~.

(b) Except for small businesses that have 19 or fewer employees, regulated areas that are required by ~~the provisions of R 325.51857~~ shall be established as soon as possible after the results of exposure monitoring are known, but not later than 90 days after **September 16, 1993**. ~~the effective date of these rules~~. For small businesses, required regulated areas shall be established as soon as possible after the results of exposure monitoring are known, but not later than **September 16, 1993**. ~~150 days after the effective date of these rules~~.

(c) Except for small businesses that have 19 or fewer employees, respiratory protection that is required by ~~the provisions of R 325.51862 and R 325.51863~~ shall be provided as soon as possible, but not later than 90 days after **September 16, 1993**. ~~the effective date of these rules~~. For small businesses, respiratory protection shall be provided as soon as possible, but not later than 150 days after **September 16, 1993**. ~~the effective date of these rules~~.

(d) Written compliance programs that are required by ~~the provisions of R 325.51858(7)~~ shall be completed and available for inspection and copying as soon as possible, but not later than 1 year after **September 16, 1993**. ~~the effective date of these rules~~.

(e) The engineering controls that are required by ~~the provisions of R 325.51858(1) to (6)~~ shall be implemented as soon as possible, but not later than 2 years after **September 16, 1993**. ~~the effective date of these rules~~. Work practice controls shall be implemented as soon as possible. Work practice controls that are directly related to engineering controls to be implemented in accordance with the compliance plan shall be implemented as soon as possible after the engineering controls are implemented.

(f) Permanent or temporary hand-washing facilities shall be provided as soon as possible, but not later than 60 days after **September 16, 1993**. ~~the effective date of these rules~~.

(g) Change rooms, showers, and lunchroom facilities shall be provided as soon as possible, but not later than 1 year after **September 16, 1993**. ~~the effective date of these rules~~.

(h) Except for small businesses that have 19 or fewer employees, the employee information and training that is required by ~~the provisions of R 325.51880~~ shall be provided as soon as possible, but not later than 90 days after **September 16, 1993**. ~~the effective date of these rules~~. For small businesses, employee information and training shall be provided as soon as possible, but not later than 180 days after **September 16, 1993**. ~~the effective date of these rules~~.

(i) Except for small businesses that have 19 or fewer employees, initial medical examinations that are required by ~~the provisions of R 325.51869~~ shall be provided as soon as possible, but not later than 90 days after **September 16, 1993**. ~~the effective date of these rules~~. For small businesses, initial medical examinations shall be provided as soon as possible, but not later than 180 days after **September 16, 1993**. ~~the effective date of these rules~~.

~~(2) All of the requirements of these rules that apply to the construction industry shall commence on the effective date of these rules, except as follows:~~

~~(a) Except for small businesses that have 19 or fewer employees, initial monitoring that is required by the provisions of R 325.51855 shall be completed as soon as possible, but not later than 60 days after the effective date of these rules. For small businesses, initial monitoring shall be completed as soon as possible, but not later than 120 days after the effective date of these rules.~~

~~(b) Except for small businesses that have 19 or fewer employees, an employer shall comply with the PEL established pursuant to the provisions of R 325.51853 as soon as possible, but not later than 90 days after the effective date of these rules. For small businesses, an employer shall comply with the PEL as soon as possible, but not later than 150 days after the effective date of these rules.~~

~~(c) Except for small businesses that have 19 or fewer employees, regulated areas that are required by the provisions of R 325.51857 shall be established as soon as possible after the results of exposure monitoring are known, but not later than 90 days after the effective date of these rules. For small businesses, regulated areas shall be set up as soon as possible after the results of exposure monitoring are known, but not later than 150 days after the effective date of these rules.~~

~~(d) Except for small businesses that have 19 or fewer employees, respiratory protection that is required by the provisions of R 325.51862 and R 325.51863 shall be provided as soon as possible, but not later than 90 days after the effective date of these rules. For small businesses, respiratory protection shall be provided as soon as possible, but not later than 150 days after the effective date of these rules.~~

~~(e) Except for small businesses that have 19 or fewer employees, written compliance programs that are required by the provisions of R 325.51861(1) shall be completed and available as soon as possible, but not later than 90 days after the effective date of these rules. For small businesses, written compliance programs shall be completed and available as soon as possible, but not later than 180 days after the effective date of these rules.~~

~~(f) Except for small businesses that have 19 or fewer employees, the engineering controls that are required by the provisions of R 325.51859(1) to (4) shall be implemented as soon as possible, but not later than 120 days after the effective date of these rules. For small businesses, the engineering controls shall be implemented as soon as possible, but not later than 240 days after the effective date of these rules. Work practice controls shall be implemented as soon as possible. Work practice controls that are directly related to engineering controls to be implemented shall be implemented as soon as possible after the engineering controls are implemented.~~

~~(g) Except for small businesses that have 19 or fewer employees, hand washing facilities, showers, change rooms, and eating facilities that are required by the provisions of R 325.51866, whether permanent or temporary, shall be provided as soon as possible, but not later than 60 days after the effective date of these rules. For small businesses, hand washing facilities, showers, change rooms, and eating facilities, whether permanent or temporary, shall be provided as soon as possible, but not later than 120 days after the effective date of these rules.~~

~~(h) Except for small businesses that have 19 or fewer employees, employee information and training that is required by the provisions of R 325.51880 shall be provided as soon as possible, but not later than 90 days after the effective date of these rules. For small businesses, employee information and training shall be provided as soon as possible, but not later than 180 days after the effective date of these rules.~~

~~(i) Except for small businesses that have 19 or fewer employees, initial medical examinations that are required by the provisions of R 325.51869 shall be provided as soon as possible, but not later than 90 days after the effective date of these rules. For small businesses, initial medical examinations shall be provided as soon as possible, but not later than 180 days after the effective date of these rules.~~

R 325.51885 Rescinded. Appendices

~~—Rule 35. Appendices A, B, D, E, and F to these rules are informational only and are not intended to create any additional obligations or requirements not otherwise imposed or to detract from any established obligations and requirements.~~

R 325.51886 Rescinded. Availability of rules and appendices; permission to copy

~~Rule 36. (1) Copies of these rules and appendices are available at no cost from the Michigan Department of Consumer and Industry Services, Standards Division, 7150 Harris Drive, P.O. Box 30643, Lansing, Michigan 48909.~~

~~(2) Permission to copy any of these documents in full is granted by the director.~~

EMERGENCY RULES

MCL 24.248 states:

“Sec. 48. (1) If an agency finds that preservation of the public health, safety, or welfare requires promulgation of an emergency rule without following the notice and participation procedures required by sections 41 and 42 and states in the rule the agency's reasons for that finding, and the governor concurs in the finding of emergency, the agency may dispense with all or part of the procedures and file in the office of the secretary of state the copies prescribed by section 46 indorsed as an emergency rule, to 3 of which copies shall be attached the certificates prescribed by section 45 and the governor's certificate concurring in the finding of emergency. The emergency rule is effective on filing and remains in effect until a date fixed in the rule or 6 months after the date of its filing, whichever is earlier. The rule may be extended once for not more than 6 months by the filing of a governor's certificate of the need for the extension with the office of the secretary of state before expiration of the emergency rule. An emergency rule shall not be numbered and shall not be compiled in the Michigan Administrative Code, but shall be noted in the annual supplement to the code. The emergency rule shall be published in the Michigan register pursuant to section 8.

(2) If the agency desires to promulgate an identical or similar rule with an effectiveness beyond the final effective date of an emergency rule, the agency shall comply with the procedures prescribed by this act for the processing of a rule which is not an emergency rule. The rule shall be published in the Michigan register and in the code.”

EMERGENCY RULES

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

BOARD OF PHARMACY- CONTROLLED SUBSTANCES

EMERGENCY RULES

Filed with the Secretary of State on

These rules take effect upon filing with the Secretary of State and shall remain in effect for 6 months.

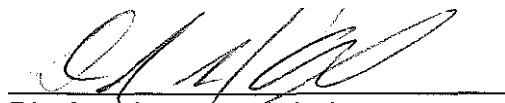
By authority conferred on the director of the Department of Licensing and Regulatory Affairs by Sections 16145(3) and 17701 of 1978 PA 368, MCL 333.16145(3) and 333.17701 et seq. and Executive Reorganization Order Nos. 2011-4 being MCL 445.2030 and pursuant to Section 48(2) of 1969 PA 306, being MCL 24.248(2), I hereby submit the following rule for emergency promulgation.



Stacey Arwood, Acting Director
Department of Licensing and Regulatory Affairs

DETERMINATION OF ADMINISTRATOR

Pursuant to Section 48(2) of 1969 PA 306, as amended, MCL 24.248(2), the Michigan Board of Pharmacy hereby concurs in the finding of the Department of Community Health contained in the Amended Imminent Danger Notification dated December 7, 2012, that an imminent danger to the lives of individuals in this state can be prevented or controlled by the scheduling of the following named substances, and hereby determines that the substances should be scheduled as Schedule 1 controlled substances.



Dhafer Almakani, Chair
Michigan Board of Pharmacy

12/21/12
Date

Rule 1. Unless specifically excepted, any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in schedules I to V, as referenced in R 338.3111 to R 338.3129, is not approved by the federal food and drug administration as a drug, and contains any

quantity of the following hallucinogenic substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation, is included in schedule 1:

(a) Any derivative of a phenethylamine with single or multiple alkyl, halogen, alkoxy, or substituted C, S, N, or O groups on the aromatic ring and/or fused variations, with or without alkyl substituents on the ethylamine moiety and/or fused variations, and with or without N-alkyl, N-aryl, or N-benzyl with or without single or multiple alkyl, halogen, alkoxy including methoxybenzyl substitution as identified in subdivision (b) of this rule.

(b) Substances include, but are not limited to, all of the following: (i) 1-(2,5-dimethoxy-4-iodophenyl)propan-2-amine

Some trade or other names

(A) DOI

(B) 2,5-Dimethoxy-4-iodoamphetamine

(ii) 1-(4-Bromo-2,5-dimethoxyphenyl)-2-aminopropane

Some trade or other names

(A) DOB

(B) 2,5-Dimethoxy-4-bromoamphetamine

(iii) 1-(4-Bromofuro[2,3-f][1]benzofuran-8-yl)propan-2-amine

Some trade or other names

(A) bromo-benzodifuranylisopropylamine

(B) bromo-dragonFLY

(iv) 1-(4-chloro-2,5-dimethoxy-phenyl)propan-2-amine

Some trade or other names

(A) DOC

(B) 2,5-Dimethoxy-4-chloroamphetamine

(v) 2-(2,5-Dimethoxy-4-ethylphenyl)ethanamine

Some trade or other names

(A) 2C-E

(B) 2,5-Dimethoxy-4-ethylphenethylamine

(vi) 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine

Some trade or other names

(A) 2C-D

(B) 2,5-Dimethoxy-4-methylphenethylamine

(vii) 2-(2,5-dimethoxy-4-(methylthio)phenyl)ethanamine

Some trade or other names

(A) 2C-T

(B) 4-methylthio-2,5-dimethoxyphenethylamine

(viii) 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine

Some trade or other names

(A) 2C-P

(B) 2,5-Dimethoxy-4-propylphenethylamine

(ix) 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine

Trade or other names

(A) 2C-N

(B) 2,5-Dimethoxy-4-nitrophenethylamine

(x) 2-(2,5-Dimethoxyphenyl)ethanamine

- Some trade or other names
- (A) 2C-H
- (B) 2,5-Dimethoxyphenethylamine
- (xi) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- Some trade or other names
- (A) 2C-B-NBOMe
- (B) 25B-NBOMe
- (c) 2,5-Dimethoxy-4-bromo-N-(2-methoxybenzyl)phenethylamine
- (xii) 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine
- Some trade or other names
- (A) 2C-C
- (B) 2,5-Dimethoxy-4-chlorophenethylamine
- (xiii) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- Some trade or other names
- (A) 2C-C-NBOMe
- (B) 25C-NBOMe
- (C) 2,5-Dimethoxy-4-chloro-N-(2-methoxybenzyl)phenethylamine
- (xiv) 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine
- Some trade or other names
- (A) 2C-T-2
- (B) 2,5-Dimethoxy-4-ethylthiophenethylamine
- (xv) 2-(4-Iodo-2,5-dimethoxyphenyl)ethanamine
- Some trade or other names
- (A) 2C-I
- (B) 2,5-Dimethoxy-4-iodophenethylamine
- (xvi) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine
- Some trade or other names
- (A) 2C-I-NBOMe
- (B) 25I-NBOMe
- (C) 2,5-Dimethoxy-4-iodo-N-(2-methoxybenzyl)phenethylamine
- (xvii) 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine
- Some trade or other names
- (A) 2C-T-4
- (B) 2,5-Dimethoxy-4-isopropylthiophenethylamine
- (xviii) 2,5-dimethoxy-4-(n)-propylthiophenethylamine
- Some trade or other names
- (A) 2C-T-7
- (xix) 2-(7-Bromo-5-methoxy-2,3-dihydro-1-benzofuran-4-yl)ethanamine
- Some trade or other names
- (A) 2CB-5-hemiFLY
- (xx) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine
- Some trade or other names
- (A) 2C-B-FLY
- (xxi) 2-(10-Bromo-2,3,4,7,8,9-hexahydropyrano[2,3-g]chromen-5-yl)ethanamine
- Some trade or other names

- (A) 2C-BbutterFLY
- (xxii) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran
Some trade or other names
(A) 5-APDB
- (xxiii) 5-(2-Aminopropyl)benzofuran Some
trade or other names (A) 5-APB
- (xxiv) 5-(2-Aminopropyl)indole Some
trade or other names (A) 5-IT
- (xxv) 5-methoxy-3,4-methylenedioxy-amphetamine
- (xxvi) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran
Some trade or other names
(A) 6-APDB
- (xxvii) 6-(2-Aminopropyl)benzofuran Some
trade or other names (A) 6-APB
- (xxviii) N-(2-Hydroxybenzyl)-4-iodo-2,5-dimethoxyphenethylamine
Some trade or other names
(A) 2C-INBOH (B)
25I-NBOH
- (xxix) N-(2-Methoxybenzyl)-1-(8-bromo-2,3,6,7-tetrahydrobenzo[1,2-b:4,5-b']difuran-4-yl)-2-aminoethane
Some trade or other names
(A) 2C-B-FLY-NBOMe
- (xxx) N-(2-Methoxybenzyl)-2-(3,4,5-trimethoxyphenyl)ethanamine
Some trade or other names
(A) Mescaline-NBOMe or 3,4,5-trimethoxy-N-(2-methoxybenzyl)phenethylamine

MICHIGAN ADMINISTRATIVE CODE TABLE
(2013 SESSION)

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

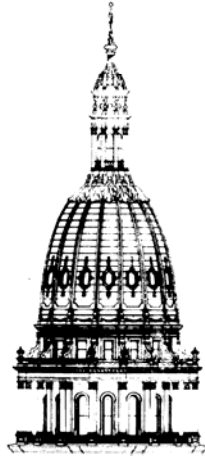
(i) Other official information considered necessary or appropriate by the Office of Regulatory Reform.”

The following table cites administrative rules promulgated during the year 2000, and indicates the effect of these rules on the Michigan Administrative Code (1979 ed.).

MICHIGAN ADMINISTRATIVE CODE TABLE
(2013 RULE FILINGS)

R Number	Action	2013 MR Issue	R Number	Action	2013 MR Issue
408.10413	R	2013	408.42503	*	2013
408.10421	*	2013	408.42518	*	2013
408.10509	*	2013	408.42520	*	2013
408.10541	*	2013	408.42521	*	2013
408.10570	*	2013	408.42522	*	2013
408.10579	*	2013	408.42524	*	2013
408.10580	*	2013	408.42525	*	2013
408.10582	*	2013	408.42526	*	2013
408.10590	*	2013	408.42527	*	2013
408.10761	R	2013	408.42528	*	2013
408.10763	R	2013	408.42531	*	2013
408.10765	R	2013	408.42532	*	2013
408.10801	*	2013	408.42533	*	2013
408.10807	*	2013	408.42534	R	2013
408.10823	*	2013	408.42535	R	2013
408.10914	*	2013	408.42602	*	2013
408.10925	*	2013	408.42644	*	2013
408.10999	*	2013			
408.41610	*	2013			
408.41627	*	2013			
408.41633	*	2013			
408.41658	*	2013			
408.41719	*	2013			
408.41725	*	2013			
408.41728	*	2013			
408.42131	R	2013			
408.42145	R	2013			
408.42149	*	2013			
408.42156	*	2013			
408.42157	*	2013			
408.42159	*	2013			
408.42160	R	2013			
408.42402	*	2013			
408.42403	*	2013			
408.42404	*	2013			
408.42405	*	2013			
408.42406	*	2013			
408.42407	*	2013			
408.42502	*	2013			

(* Amendment to Rule, **A** Added Rule, **N** New Rule, **R** Rescinded Rule)



**CUMULATIVE
INDEX**

H

HUMAN SERVICES, DEPARTMENT OF

Licensing Rules for Child Care Centers (2013-1*)

L

**LICENSING AND REGULATORY AFFAIRS, DEPARTMENT OF
Emergency Rule**

Board of Pharmacy (2013-1)

Part 4.Portable Ladders GI (2013-1)

Part 5.Scaffolding GI (2013-1)

Part 7.Guards for Power Transmission GI (2013-1)

Part 8 Electrical Code (2013-1*)

Part 8.Portable Fire Extinguishers GI (2013-1)

Part 9.Fixed Fire Equipment GI (2013-1)

Part 9A Mechanical Code (2013-1*)

Part 16.Power Transmission and Distribution CS (2013-1)

Part 17.Electrical Installation CS (2013-1)

Part 21.Guarding of Walking and Working Areas CS (2013-1)

Part 24.Tar Kettles CS (2013-1)

Part 25.Concrete Construction CS (2013-1)

Part 26.Steel Erection CS (2013-1)

Part 44 Foundries GI (2013-1*)

Part 45 Die Casting GI (2013-1*)

Part 57 Oil and Gas Drilling and Servicing Operations GI (2013-1*)

Part 62 Plastic Molding GI (2013-1*)

Part 72 Automotive Service Operations GI (2013-1*)

Part 73 Fire Brigades GI (2013-1*)

Part 309 Cadmium OH (2013-1*)

State Boundary Commission (2013-1*)

**ADMINISTRATIVE RULES
ENROLLED SENATE AND HOUSE BILLS
SIGNED INTO LAW OR VETOED
(2012 SESSION)**

Mich. Const. Art. IV, §33 provides: “Every bill passed by the legislature shall be presented to the governor before it becomes law, and the governor shall have 14 days measured in hours and minutes from the time of presentation in which to consider it. If he approves, he shall within that time sign and file it with the secretary of state and it shall become law . . . If he does not approve, and the legislature has within that time finally adjourned the session at which the bill was passed, it shall not become law. If he disapproves . . . he shall return it within such 14-day period with his objections, to the house in which it originated.”

Mich. Const. Art. IV, §27, further provides: “No act shall take effect until the expiration of 90 days from the end of the session at which it was passed, but the legislature may give immediate effect to acts by a two-thirds vote of the members elected to and serving in each house.”

MCL 24.208 states in part:

“Sec. 8. (1) The Office of Regulatory Reform shall publish the Michigan register at least once each month. The Michigan register shall contain all of the following:

* * *

(b) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills signed into law by the governor during the calendar year and the corresponding public act numbers.

(c) On a cumulative basis, the numbers and subject matter of the enrolled senate and house bills vetoed by the governor during the calendar year.”